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February 21, 2020

*Via Electronic Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

In re: Docket No. A-2016-2580061 – Remand  
Application of Aqua Pennsylvania Wastewater, Inc. – New Garden Township

Dear Secretary Chiavetta:

We are counsel for Aqua Pennsylvania Wastewater, Inc. (“Aqua”) in the above matter and are submitting, with this letter via electronic filing, the Joint Petition of Aqua, the Office of Consumer Advocate and New Garden Township/New Garden Township Sewer Authority for Approval of Settlement of Remand Proceeding. Copies of the Joint Petition are being served upon the persons and in the manner set forth on the certificate of service attached to it. Please contact me if anything further is required in regard to this matter.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 

Thomas T. Niesen

cc: Certificate of Service (w/encl.)  
Alexander R. Stahl, Esq. (via email, w/encl.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Application of Aqua Pennsylvania : Docket No. A-2016-2580061**  
**Wastewater, Inc. Pursuant to Sections :**  
**1102 and 1329 of the Public Utility Code :**  
**for Approval of its Acquisition of the :**  
**Wastewater System Assets of New Garden :**  
**Township and the New Garden Township :**  
**Sewer Authority :**

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**JOINT PETITION FOR APPROVAL OF SETTLEMENT  
OF REMAND PROCEEDING**

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AND NOW come Aqua Pennsylvania Wastewater, Inc. (“Aqua” or “Company”), the Office of Consumer Advocate (“OCA”), New Garden Township (“Township”) and New Garden Township Sewer Authority (“Authority”),<sup>1</sup> by their attorneys, and submit this Joint Petition for Approval of Settlement of Remand Proceeding (“Joint Petition”). By this Joint Petition, Joint Petitioners propose a resolution of all issues as set forth below. In support thereof, Joint Petitioners submit the following:

**I. BACKGROUND**

1. This proceeding is before the Commission on remand as a result of the Opinion of the Commonwealth Court in *McCloskey v. Pa. P.U.C.*, 195 A.3d 1055 (Pa. Cmwlth. 2018) (“*McCloskey*”), *petition for allowance of appeal denied* No. 703 MAL 2018 (April 23, 2019).

2. Aqua initiated the proceeding, on December 15, 2016, with the filing of its Application, pursuant to Sections 1102 and 1329 of the Public Utility Code (“Code”). The Application, which was assigned to Docket No. A-2016-2580061, was the first Application to be

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<sup>1</sup> Aqua, the OCA, and New Garden are, hereinafter, sometimes referred to, collectively, as “Joint Petitioners.” The Bureau of Investigation and Enforcement (“I&E”) and the Office of Small Business Advocate (“OSBA”), which were parties to the original action at the Public Utility Commission (“Commission”), do not join in or oppose the Settlement.

filed under Section 1329 of the Code.

3. The Application asked the Commission to approve Aqua's acquisition of the wastewater system assets of New Garden Township and the New Garden Township Sewer Authority ("Authority") (collectively, with Township, "New Garden").

4. The Application also asked the Commission for a determination of ratemaking rate base of \$29,500,000 for the wastewater system assets pursuant to Section 1329(c)(2) of the Code. The Application did not propose to increase any rate charged by either Aqua or New Garden to any Aqua or New Garden customer in the proposed tariff.

5. The Commission published notice of the filing of the Application in the *Pennsylvania Bulletin* on January 7, 2017. At the direction of the Commission, Aqua also published a notice of the filing of the Application in a local newspaper of general circulation and served copies of the Application on local municipalities, their related planning offices and others.

6. The notices published by the Commission and Aqua advised that formal protests or petitions to intervene could be filed with the Commission on or before January 23, 2017.

7. The OCA filed a Protest to the Application on January 17, 2017. I&E filed a Notice of Appearance on January 3, 2017, a Protest on January 10, 2017 and an Amended Protest on January 19, 2017. The OSBA filed a Notice of Appearance on January 23, 2017. The Township and the Authority filed Petitions to Intervene on January 18, 2017.

8. An evidentiary hearing was held on February 16, 2017, with Administrative Law Judge Steven K. Haas presiding. Aqua, OCA, I&E, OSBA and New Garden actively participated in the evidentiary hearing. Witnesses testified and were cross examined. Post-hearing Main and Reply Briefs were filed.

9. By Opinion and Order entered June 29, 2017 ("Order entered June 29, 2017"), the

Commission granted Aqua's Application and approved Aqua's acquisition of the New Garden wastewater system assets and a ratemaking rate base of \$29,500,000 pursuant to Section 1329(c)(2).<sup>2</sup>

10. The Commission concluded that there are public benefits to the transaction under Sections 1102 and 1103 of the Code. It noted that the benefits of the acquisition are consistent with its Policy Statement on Acquisition of Viable Water and Wastewater Systems, 52 Pa. Code § 69.721.<sup>3</sup>

11. The Commission also concluded, in pertinent part, that "the benefits outlined by Aqua, as well as the requirement for the Company to include in its next base rate case a cost-of-service study relevant to the New Garden system, and the determination that the rate assurances offered between Aqua and New Garden are not binding on the rate-making authority of this Commission, will all work in tandem to satisfy the requirements of Chapters 11 and 13 of the Code."<sup>4</sup>

12. In conjunction with the Order entered June 29, 2017, the Commission also issued a Certificate of Public Convenience, dated June 29, 2017, authorizing Aqua (1) to acquire the New Garden Wastewater System Assets; (2) to begin to provide wastewater service in portions of New Garden and Kennett Townships; and (3) to incorporate ratemaking rate base of \$29,500,000 for the New Garden Wastewater System assets in its next base rate case.

13. On July 14, 2017, I&E filed a Petition for Reconsideration of the Commission's Order entered June 29, 2017. On July 20, 2017, the Commission granted I&E's Petition for Reconsideration, pending further review of, and consideration on, the merits.

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<sup>2</sup> Order entered June 29, 2017 at 72-73.

<sup>3</sup> Order entered June 29, 2017 at 67-68.

<sup>4</sup> Order entered June 29, 2017 at 71.

14. On July 24, 2017, Aqua and New Garden filed Answers to I&E's Petition for Reconsideration opposing I&E's Petition for Reconsideration.

15. By Opinion and Order entered October 5, 2017 ("Order entered October 5, 2017"), the Commission granted the Petition for Reconsideration in part, and denied it, in part, whereby the Commission modified its Order entered July 29, 2017 to specifically approve the Assets Purchase Agreement ("APA") and municipal agreements filed with Aqua's Application.

16. On November 3, 2017, the OCA filed a petition with the Commonwealth Court for review of the Order entered June 29, 2017, as subsequently upheld by the Order entered October 5, 2017. The OCA's petition was assigned to No. 1624 C.D. 2017. The OCA contended, *inter alia*, (1) that the Commission erred as a matter of law in concluding that the acquisition met the Section 1102 standard for approval without considering rate increases that will result from the Section 1329 valuation and (2) that the Commission violated the due process rights of customers by failing to provide adequate notice and an opportunity to be heard.<sup>5</sup>

17. The Commonwealth Court addressed the OCA's petition for review in *McCloskey*. The Court vacated the Order entered June 29, 2017 and remanded the matter to the Commission to conduct proceedings in accordance with the Court's Opinion.

18. The Commonwealth Court concluded that, in an Application proceeding under Section 1329, individual customer notice of the proposed sale has to be given to all ratepayers as well as an opportunity for them to participate in the proceeding.<sup>6</sup>

19. The Commonwealth Court also concluded that the Commission must address rate impact in a "general fashion" and must perform the balancing test required by Section 1102 of the

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<sup>5</sup> The petition for review did not challenge the Commission's determination of ratemaking rate base of \$29.5 million.

<sup>6</sup> *McCloskey*, *supra*, Section IV at 1067-1069.

Public Utility Code “to weigh all the factors for and against the transaction, including the impact on rates, to determine if there is a substantial public benefit.”<sup>7</sup>

20. The Commonwealth Court directed the PUC to provide notice to all ratepayers in accordance with 52 Pa. Code § 53.45, receive additional evidence from ratepayers regarding the acquisition and then enter a new order consistent with the Commonwealth Court’s Opinion.

21. On November 18, 2018, Aqua filed a petition for allowance of appeal asking the Supreme Court of Pennsylvania to review the Commonwealth Court Opinion. The Supreme Court denied the petition by *per curiam* Order dated April 23, 2019.

## **II. SETTLEMENT TERMS**

22. Joint Petitioners agree that this remand proceeding and the Commonwealth Court’s directives can be addressed through settlement and without the need for further litigation. The terms and conditions comprising this Joint Petition, to which Joint Petitioners agree, are as follows:

### **Notices to Customers of Aqua and New Garden Township**

- a. Joint Petitioners agree that Aqua will provide the Notice of Proposed Acquisition and Rate Base Addition attached hereto as Appendix A to its water and wastewater customers and that New Garden will provide the Notice of Proposed Acquisition and Rate Base Addition attached hereto as Appendix B to its wastewater customers.<sup>8</sup> The notices are in accordance with 52 Pa. Code § 53.45.

The Notices present an explanation of the settlement and provide customers with an opportunity to participate by filing written comments and/or requesting a hearing regarding the proposed acquisition. Aqua will provide its customer Notice via bill insert. New Garden will provide its customer Notice via direct mailing during the period Aqua is providing notice.

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<sup>7</sup> *McCloskey, supra*, Section III.B at 1065-1067.

<sup>8</sup> Based upon the circumstances of this proceeding the Joint Petitioners have agreed upon the notices attached as Appendix A and B, and as they are part of the Settlement in this proceeding, they do not constitute a precedent for future proceedings.

### **Additional Aqua Notice Re Low Income Programs**

- b. Within the first 90 days of Aqua's ownership of the New Garden system, Aqua shall include a bill insert to the New Garden-area customers regarding its low income programs or, alternatively, shall include such information in a welcome letter to New Garden-area customers. The bill insert or welcome letter shall include, at a minimum, a description of the available low income programs, the eligibility requirements for participation in the programs, and Aqua's contact information.

### **Evidence of Rate Impact**

- c. By agreement with the Joint Petitioners and as directed by the Commonwealth Court, Aqua is providing additional evidence regarding rate impacts attached hereto as Appendix C.

### **Purchase Price and Ratemaking Rate Base**

- d. Aqua and New Garden confirm that the purchase price to be paid by Aqua for the New Garden Wastewater System will be \$29.5 million.
- e. Joint Petitioners confirm that the ratemaking rate base for the New Garden Wastewater system will be \$29.5 million consistent with Section 1329(c)(2) and as determined by the Commission in the Order entered June 29, 2017.

### **Aqua's Next Base Rate Case**

- f. Joint Petitioners agree that Aqua will include the New Garden Wastewater System in its next base rate case, which is anticipated to be filed in 2021.
- g. Joint Petitioners confirm that Aqua will provide a separate cost of service study for the New Garden Township Wastewater System in its next base rate case.
- h. Joint Petitioners agree that, in its next rate filing following closing of the New Garden acquisition, Aqua will submit a plan to move rates for New Garden customers towards cost of service.
  - (1) Aqua will propose to establish a rate zone for New Garden that will increase the rates of the System to an amount equal to Aqua's Zone 1 wastewater rates, unless such increase would be more than two times the system-average increase for the wastewater division (calculated on a percentage increase basis). If the increase for the System would be more than two times the system-average increase of the wastewater division, Aqua will propose that the increase for the System be capped at two times the system-average wastewater division increase in this first base rate case.

- (2) Joint Petitioners agree that they will not challenge or oppose the above proposal in the first base rate case; provided, however, that the Joint Petitioners expressly recognize the Commission's ultimate ratemaking authority to set just and reasonable rates and, notwithstanding anything to the contrary contained in this paragraph, Joint Petitioners may enter into a settlement of the base rate case, whether full or partial and whether unanimous or non-unanimous, on reasonable terms and conditions.

#### **New Garden Township Rates**

- i. New Garden confirms that it has, by Township Resolution, increased its sewer rates to accommodate its on-going expenses and capital improvements. New Garden increased its sewer rates for the 3 years starting in 2018, with a 10% increase effective November 2018, a 9.56% increase effective November 2019, and an 8.76% increase effective November 2020. The November 2020 rates will stay in effect until Aqua's next base rate case. New Garden's current rate ordinance is attached hereto as Appendix D.

#### **APA Amendments Removing CAGR and Two Year Rate Freeze**

- j. Aqua and New Garden agreed in Paragraph 7.b of their APA that Aqua will continue to charge New Garden customers their current rates for 730 days following closing and that, for the ten year period beginning on the Closing Date, future rate increases will not exceed a compounded annual growth rate ("CAGR") of 4%. Joint Petitioners agree that the two year rate freeze and ten year CAGR rate restriction are removed from the APA. The Third Amendment to the APA between Aqua and New Garden is attached hereto as Appendix E.

#### **LTIIIP, AFUDC and Depreciation Deferral**

- k. Joint Petitioners agree that Aqua will revise its Long Term Infrastructure Improvement Plan ("LTIIIP") to include New Garden Township and related projects before it begins charging its Distribution System Improvement Charge to New Garden customers. Aqua agrees that the projects related to New Garden customers are in addition to the projects already included in its approved LTIIIP.
- l. Regarding future claims for AFUDC, deferral of depreciation, and transaction costs related to this acquisition, Joint Petitioners reserve the right to litigate their positions fully in future rate cases when these issues are ripe for review. The OCA's assent to this agreement is not to be construed to operate as its preapproval of Aqua's requests.

#### **Appraisal Adjustments**

- m. Aqua acknowledges that the OCA made adjustments to the appraisals of Gannett Fleming Valuation and Rate Consultants, LLC and AUS Consultants, Inc. Aqua agrees that in future Section 1329 filings, Aqua will support the following position:



Market Approach: Speculative growth adjustments will not be used, consistent with the Order entered June 29, 2017, pp. 52-53.

### **III. STIPULATION OF FACTS IN SUPPORT OF SETTLEMENT**

23. In support of the settlement, Joint Petitioners stipulate to the authenticity and admission into the remand record of the following testimony and exhibits:

- a. The entirety of the evidentiary record, including all testimony and exhibits, in the original proceeding before Administrative Law Judge Haas;
- b. The Notice of Proposed Acquisition and Rate Base Addition attached hereto as Appendix A being provided by Aqua to its water and wastewater customers;
- c. The Notice of Proposed Acquisition and Rate Base Addition attached hereto as Appendix B being provided by New Garden Township to its wastewater customers;
- d. Additional evidence of rate impacts attached hereto as Appendix C.
- e. New Garden's current sewer ordinance attached hereto as Appendix D.
- f. The Third Amendment to the APA between Aqua and New Garden attached hereto as Appendix E.

24. In regard to the foregoing and in further support of the settlement, Joint Petitioners stipulate to the following:

- a. As directed by the Commonwealth Court, Aqua and New Garden Township are providing notice to all ratepayers. The Notices being provided by Aqua to its water and wastewater customers and by New Garden Township to its wastewater customers comply with the customer notice requirements of 52 Pa. Code § 53.45. Aqua and New Garden customers also have an opportunity to be heard in response to the filing by filing written comments and/or requesting a hearing be held.
- b. As directed by the Commonwealth Court and consistent with *City of York v. Pa. P.U.C.*, 295 A.2d 825 (Pa. 1972), Joint Petitioners have addressed rate impact in a general fashion. The additional evidence of rate impact submitted as Appendix C shows the non-binding, estimated bill impact from the proposed rate base addition on New Garden customers, and on Aqua's existing water and wastewater customers;
- c. Weighing all factors for and against the transaction, including the impact on rates, Joint Petitioners agree that the Settlement is in the public interest.

#### **IV. FURTHER JUSTIFICATION AND SUPPORT FOR SETTLEMENT**

25. It is the stated policy of the Commission to encourage parties to resolve contested proceedings through settlement.<sup>9</sup> Settlements lessen the time and expense of litigating a case and, thus, directly benefit all parties concerned.

26. Where the active parties in a proceeding have reached a settlement, the principal issue for Commission consideration is whether the agreement reached is in the public interest.<sup>10</sup> Joint Petitioners submit that the resolution of this proceeding through settlement will further the public interest.

27. Statements of Aqua, the OCA, and New Garden in support of the settlement are attached hereto as Appendices F, G, and H, respectively.

#### **V. CONDITIONS OF SETTLEMENT**

28. This Joint Petition is proposed to settle the instant matter and is made without any admission against or prejudice to any position which any Joint Petitioner might adopt during subsequent litigation in any case, including further litigation in this case if this Joint Petition is rejected by the Commission or withdrawn by any one of the Joint Petitioners as provided below. Except as set forth above, Joint Petitioners agree that no part of this Joint Petition shall be cited for any purpose in this or any other proceeding in this or any other jurisdiction.

29. This Joint Petition is conditioned upon the Commission's approval of all terms and conditions contained herein. All signatories to the settlement agree that they will diligently pursue

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<sup>9</sup> 52 Pa. Code § 5.231(a). The Commission, moreover, has stated that the results achieved from a negotiated settlement or stipulation in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

<sup>10</sup> *Pa. P.U.C. v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103, Opinion and Order entered July 14, 2011, citing *Warner v. GTE North, Inc.*, Docket No. C-00902815, Opinion and Order entered April 1, 1996 and *Pa. P.U.C. v. C S Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991). See also *Pa.P.U.C. v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1 (1985).

Commission approval of the settlement, without modification, using reasonable efforts in the ordinary course of business. If the Commission should fail to grant such approval or should modify the terms and conditions herein, this Joint Petition may be withdrawn upon written notice to the Commission and all parties within three (3) business days by any one of the Joint Petitioners and, in such event, shall be of no force and effect. Regardless of whether this Settlement is approved or not, no adverse inference shall be drawn to any party in this or any other proceeding as a consequence of this Settlement.

30. Joint Petitioners waive the right to file Exceptions if the presiding Administrative Law Judge recommends approval of this Joint Petition without modification.

31. The Joint Petitioners recognize that this Joint Petition does not bind any ratepayer participating by filing comments or participating in a hearing, if a hearing is held, after receiving Notice of the settlement. Nothing herein is intended to limit in any way any position which any Joint Petitioner may have or take concerning any comment to the settlement that may be filed.

WHEREFORE Aqua Pennsylvania Wastewater, Inc., the Office of Consumer Advocate, and New Garden respectfully request:

(a) That the presiding Administrative Law Judge recommend approval of, and that the Public Utility Commission approve, without modification, this Joint Petition for Approval of Settlement of Remand Proceeding, including all settlement terms and conditions;

(b) That the presiding Administrative Law Judge recommend and the Public Utility Commission order as follows:

i. That the Application of Aqua Pennsylvania Wastewater, Inc., seeking approval of: (1) the acquisition, by Aqua, of the wastewater system assets

of New Garden Township and the New Garden Township Sewer Authority, (2) the right of Aqua to begin to offer, render, furnish and supply wastewater service to the public in portions of New Garden and Kennett Townships, Chester County, Pennsylvania, and (3) an order approving the acquisition that includes the ratemaking rate base of the New Garden wastewater system assets pursuant to 66 Pa. C.S. § 1329(c)(2), is granted.

ii. That the rate base addition of \$29,500,000 is approved.

iii. That, if necessary, the Commission's Secretary reissue Certificates of Public Convenience evidencing Aqua Pennsylvania Wastewater, Inc.'s right under Sections 1102(a)(1), 1102(a)(3) and 1329(c)(2) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 1102(a)(1), 1102(a)(3) and 1329(c)(2), to: (a) acquire, by sale, the wastewater system assets of New Garden Township and the New Garden Township Sewer Authority, (b) the right of Aqua Pennsylvania Wastewater, Inc. to begin to offer, render, furnish and supply wastewater service to the public in portions of New Garden and Kennett Townships, Chester County, Pennsylvania, and (c) allow Aqua Pennsylvania Wastewater, Inc. to incorporate the ratemaking rate base of \$29,500,000 for the New Garden wastewater system assets in its next base rate case pursuant to 66 Pa. C.S. § 1329(c)(2).

iv. That within ten (10) days after the closing of the transaction, Aqua Pennsylvania Wastewater, Inc. shall file a compliance tariff supplement containing the existing rates of New Garden Township and New Garden Township Sewer Authority at the time of closing.

v. That Aqua Pennsylvania Wastewater, Inc. include the New Garden Township Wastewater System in its next base rate case, which is anticipated to be filed in 2021.

vi. That Aqua Pennsylvania Wastewater, Inc. provide a separate cost of service study for the New Garden Township Wastewater System in its next base rate case.

vii. That Aqua Pennsylvania Wastewater, Inc., in its next base rate filing submit a plan to move rates for New Garden customers towards cost of service.

Aqua will propose to establish a rate zone for New Garden that will increase the rates of the System to an amount equal to Aqua's Zone 1 wastewater rates, unless such increase would be more than two times the system-average increase for the wastewater division (calculated on a percentage increase basis). If the increase for the System would be more than two times the system-average increase of the wastewater division, Aqua will propose that the increase for the System be capped at two times the system-average wastewater division increase in this first base rate case.

Aqua, New Garden, and the OCA will not challenge or oppose the above proposal in the first base rate case; provided, however, that Aqua, New Garden, and the OCA expressly recognize the Commission's ultimate ratemaking authority to set just and reasonable rates and, notwithstanding anything to the contrary contained in this paragraph, Aqua, New Garden, and the OCA may enter into a settlement of the base rate case, whether full or partial and whether unanimous or non-unanimous, on reasonable terms and conditions.

viii. That Aqua provide the Notice of Proposed Acquisition and Rate Base Addition attached as Appendix A to the Joint Petition for Approval of Settlement of Remand Proceeding to its water and wastewater customers and that New Garden Township provide the Notice of Proposed Acquisition and Rate Base Addition attached as Appendix B to the Joint Petition for Approval of Settlement of Remand Proceeding to its wastewater customers, said Notices being consistent

with the Commission's Final Supplemental Implementation Order of February 28, 2019 at Docket No. M-2016-2543193 and in accordance with the customer notice requirements of 52 Pa. Code § 53.45.

ix. That, within the first 90 days of Aqua Pennsylvania Wastewater, Inc.'s ownership of the New Garden system, Aqua shall include a bill insert to the New Garden-area customers regarding its low income programs or, alternatively, shall include such information in a welcome letter to New Garden-area customers. The bill insert or welcome letter shall include, at a minimum, a description of the available low income programs, the eligibility requirements for participation in the programs, and Aqua's contact information.

x. That Paragraph 7.b of the Assets Purchase Agreement between Aqua Pennsylvania Wastewater, Inc., New Garden Township, and New Garden Township Sewer Authority is amended to eliminate the two year rate freeze and ten year CAGR rate restriction, and the Commission issue certificates of filing under Section 507 of the Code for the Third Amendment to the Assets Purchase Agreement.

xi. That Aqua Pennsylvania Wastewater, Inc., will revise its Long Term Infrastructure Improvement Plan to include New Garden Township and related projects before it begins charging its Distribution System Improvement Charge to New Garden customers. Projects related to New Garden customers are in addition to the projects already included in its approved LTIIP.

xii. That, regarding future claims for AFUDC, deferral of depreciation, and transaction costs related to this acquisition, Aqua, OCA, and New Garden

reserve the right to litigate their positions fully in future rate cases when these issues are ripe for review. The OCA's assent to this agreement is not to be construed to operate as its preapproval of Aqua's requests.

xiii. That Aqua Pennsylvania Wastewater, Inc., in future Section 1329 filings, will support the following position:

Market Approach: Speculative growth adjustments will not be used, consistent with the Order entered June 29, 2018, pp. 52-53.

(c) That the presiding Administrative Law Judge recommend and the Public Utility Commission accept the Stipulation of Aqua, OCA, and New Garden as to the authenticity and admission into the remand record of the following testimony and exhibits:

i. The entirety of the evidentiary record, including all testimony and exhibits, in the original proceeding before Administrative Law Judge Haas;

ii. The Notice of Proposed Acquisition and Rate Base Addition attached as Appendix A to the Joint Petition for Approval of Settlement of Remand Proceeding being provided by Aqua to its water and wastewater customers;

iii. The Notice of Proposed Acquisition and Rate Base Addition attached as Appendix B to the Joint Petition for Approval of Settlement of Remand Proceeding being provided by New Garden Township to its wastewater customers;

iv. Additional evidence of rate impacts attached as Appendix C to the Joint Petition for Approval of Settlement of Remand Proceeding.

v. The current New Garden Township sewer ordinance attached as Appendix D to the Joint Petition for Approval of Settlement of Remand Proceeding.

vi. The Third Amendment to the Assets Purchase Agreement between Aqua Pennsylvania Wastewater, Inc. and New Garden Township attached as Appendix E to the Joint Petition for Approval of Settlement of Remand Proceeding.

(d) That the presiding Administrative Law Judge recommend and the Public Utility Commission accept the Stipulation of Aqua, OCA, and New Garden and conclude as follows:

i. As directed by the Commonwealth Court, Aqua and New Garden Township are providing notice to all ratepayers. The Notices being provided by Aqua to its water and wastewater customers and by New Garden Township to its wastewater customers comply with the customer notice requirements of 52 Pa. Code § 53.45. Aqua and New Garden customers also had an opportunity to be heard in response to the filing by filing written comments and/or requesting a hearing;

ii. As directed by the Commonwealth Court and consistent with *City of York v. Pa. P.U.C.*, 295 A.2d 825 (Pa. 1972), rate impact has been addressed in a general fashion. The additional evidence of rate impact submitted as Appendix C shows the non-binding, estimated bill impact from the proposed rate base addition on New Garden customers, and on Aqua's existing water and wastewater customers;

iii. That a certificate of filing be issued for the Third Amendment to the Assets Purchase Agreement between Aqua Pennsylvania Wastewater, Inc. and New Garden Township.



iv. Weighing all factors for and against the transaction, including the impact on rates, there is substantial public benefit to the transaction.

Respectfully submitted,

**AQUA PENNSYLVANIA WASTEWATER, INC.**

By: 

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*Counsel for Aqua Pennsylvania Wastewater, Inc.*

**THE OFFICE OF CONSUMER  
ADVOCATE**

By: \_\_\_\_\_

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**NEW GARDEN TOWNSHIP**

By: \_\_\_\_\_

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*Counsel for New Garden Township*

**NEW GARDEN TOWNSHIP SEWER  
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*Counsel for New Garden Township Sewer  
Authority*

Dated: February 21, 2020

iv. Weighing all factors for and against the transaction, including the impact on rates, there is substantial public benefit to the transaction.

Respectfully submitted,

**AQUA PENNSYLVANIA WASTEWATER, INC.**

**By:** \_\_\_\_\_

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**THE OFFICE OF CONSUMER  
ADVOCATE**

**By:** Christine Maloni Hoover

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*Counsel for New Garden Township Sewer  
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iv. Weighing all factors for and against the transaction, including the impact on rates, there is substantial public benefit to the transaction.

Respectfully submitted,

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**NEW GARDEN TOWNSHIP SEWER  
AUTHORITY**

**By:** \_\_\_\_\_

  
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*Counsel for New Garden Township Sewer  
Authority*

Dated: February 21, 2020

## **APPENDIX A**

### **NOTICE TO AQUA WATER AND WASTEWATER CUSTOMERS**

## **NOTICE OF PROPOSED ACQUISITION AND RATE BASE ADDITION**

Docket No. A-2016-2580061

Dear Customer:

On June 29, 2017, the Pennsylvania Public Utility Commission (PUC) approved the application of Aqua Pennsylvania Wastewater, Inc. (Aqua) to acquire the wastewater system assets of New Garden Township and New Garden Township Sewer Authority (New Garden). New Garden serves approximately 2,300 customers in Chester County, Pennsylvania. The PUC approved an addition of up to \$29.5 million to Aqua's rate base pursuant to 66 Pa. C.S. § 1329, which represents the cost to acquire the New Garden assets. The PUC approval was appealed to the Commonwealth Court, which remanded the decision back to the PUC. Administrative Law Judge Steven K. Haas is presiding over the remand proceeding.

A settlement of the remand proceeding has been reached between Aqua and the Office of Consumer Advocate. On February 21, 2020 Aqua filed the proposed Settlement with the PUC and served a copy of the proposed Settlement on Judge Haas. You can find the settlement on Aqua's website at the following web address:

<https://www.aquaamerica.com/our-states/pennsylvania/new-garden.aspx>

If you would like a paper copy, please contact Aqua's counsel Thomas Niesen at 717.255.7600 and one will be provided to you.

This brief summary of some of the points of the Settlement is provided for your convenience. However, we encourage you to please review the Settlement in its entirety. The Settlement, if approved, would do the following:

- Allow Aqua to acquire the New Garden sewer assets and begin to provide sewer service in areas supplied by New Garden.
- Allow Aqua to add \$29.5 million to its rate base pursuant to 66 Pa. C.S. § 1329. A utility's rate base is the value of property used by the utility to provide service to its customers and is one of several components used to establish a utility's customer rates.
- Remove the provisions regarding the compound annual growth rate and rate freeze from the Asset Purchase Agreement.
- Implement New Garden's existing sewer rate ordinance for New Garden wastewater customers, which includes the increase in 2019 and provides for the New Garden approved rate increase in 2020, after which time rates would not change until the conclusion of Aqua's next base rate case following closing.
- Propose a rate zone for New Garden wastewater customers, in Aqua's first base rate case following closing, that would increase rates to an amount equal to Aqua's Zone 1 wastewater rates, unless the increase would be more than twice the system average increase for all Aqua's wastewater divisions. In that case, the increase would be capped at twice the system average increase, unless otherwise ordered by the PUC.

The table below presents a non-binding, estimated incremental rate effect of the proposed rate base addition on Aqua's customers:

### **Aqua Wastewater Customers**

<b>Rate Class</b>	<b>Average Usage</b>	<b>Estimated Monthly Increase</b>	<b>Estimated Percentage Increase</b>
Residential	3,020 gal/month	\$2.12	3.10%
Commercial	21,940 gal/month	\$6.66	3.10%
Industrial	3,200 gal/month	\$1.72	3.10%

### **Aqua Water Customers**

<b>Rate Class</b>	<b>Average Usage</b>	<b>Estimated Monthly Increase</b>	<b>Estimated Percentage Increase</b>
Residential	4,080 gal/month	\$0.16	0.25%
Commercial	37,050 gal/month	\$1.02	0.25%
Industrial	211,510 gal/month	\$4.80	0.25%

The amounts stated above could change and will depend on how the PUC chooses to apportion any increase among the types of service, rate zones, and classes of customers.

### **PUC ROLE**

The state agency that approves acquisitions and rates for regulated public utilities is the PUC. It will review the proposed settlement related to acquisition of the New Garden wastewater assets. After examining the evidence, the PUC may approve, modify or deny the settlement. As part of its review, the PUC will hold a hearing if a hearing is requested.

### **ACTIONS YOU CAN TAKE**

1. File written comments to the PUC. You can tell the PUC why you support or object to the transaction or the settlement. This information can be helpful when the PUC investigates the application and settlement. You can ask the PUC to schedule a hearing and take part in any hearings about the proposed acquisition and will receive all notices and decisions issued by the Commission. Your comments must be postmarked no later than April 8, 2020.
2. You may choose to do nothing.

If you choose to file comments:

- Include the PUC docket number A-2016-2580061
- Send an original to the Commission's Secretary and a copy to Judge Haas and Aqua's Counsel Thomas T. Niesen:

Secretary's Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Thomas T. Niesen  
Thomas, Niesen & Thomas, LLC  
212 Locust Street, Suite 302  
Harrisburg, PA, 17101

Honorable Steven K. Haas  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

- Your comments **must be postmarked no later than April 8, 2020.**

The documents filed related to this application are available on the PUC's website at [www.puc.pa.gov](http://www.puc.pa.gov), for inspection and copying at the Office of the Secretary of the PUC between 8 a.m. and 4:30 p.m., Monday through Friday, and at Aqua's offices at 762 West Lancaster Avenue, Bryn Mawr, PA 19010. For more information, please feel free to contact Aqua at 877.987.2782 or the PA Office of Consumer Advocate toll-free at 1.800.684.6560.

## **APPENDIX B**

### **NOTICE TO NEW GARDEN WASTEWATER CUSTOMERS**





# New Garden Township

## Board of Supervisors

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### NOTICE OF PROPOSED ACQUISITION AND RATE BASE ADDITION

Docket No. A-2016-2580061

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A settlement of the remand proceeding has been reached between Aqua and the Office of Consumer Advocate. On February 21, 2020, Aqua filed the proposed Settlement with the PUC and served a copy of the proposed Settlement on Judge Haas. You can find the settlement on Aqua's website at the following web address:

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If you would like a paper copy, please contact Aqua's counsel Thomas Niesen at 717.255.7600 and one will be provided to you.

This brief summary of some of the points of the Settlement is provided for your convenience. However, we encourage you to please review the Settlement in its entirety. The Settlement, if approved, would do the following:

- Allow Aqua to acquire the New Garden sewer assets and begin to provide sewer service in areas supplied by New Garden.
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- Remove the provisions regarding the compound annual growth rate and rate freeze from the Asset Purchase Agreement.
- Implement New Garden's existing sewer rate ordinance for New Garden wastewater customers, which includes the increase in 2019 and provides for the New Garden approved rate increase in 2020, after which time rates would not change until the conclusion of Aqua's next base rate case following closing.
- Propose a rate zone for New Garden wastewater customers, in Aqua's first base rate case following closing, that would increase rates to an amount equal to Aqua's Zone 1 wastewater rates, unless the increase would be more than twice the system average increase for all Aqua's wastewater divisions. In that case, the increase would be capped at twice the system average increase, unless otherwise ordered by the PUC.

The table below presents a non-binding, estimated incremental rate effect of the proposed rate base addition on New Garden's wastewater customers:

#### **New Garden Customers**

<b>Rate Class</b>	<b>Average Usage</b>	<b>Estimated Monthly Increase From New Garden's 2020 rates</b>	<b>Estimated Percentage Increase</b>
Residential	3,750 gal/month	\$35.69	51.57%
Commercial	7,820 gal/month	\$101.74	51.57%

The amounts stated above could change and will depend on how the PUC chooses to apportion any increase among the types of service, rate zones, and classes of customers.

#### **PUC ROLE**

The state agency that approves acquisitions and rates for regulated public utilities is the PUC. It will review the proposed settlement related to acquisition of the New Garden wastewater assets. After examining the evidence, the PUC may approve, modify or deny the settlement. As part of its review, the PUC will hold a hearing if a hearing is requested.

#### **ACTIONS YOU CAN TAKE**

1. File written comments to the PUC. You can tell the PUC why you support or object to the transaction or the settlement. This information can be helpful when the PUC investigates the application and settlement. You can ask the PUC to schedule a hearing and take part in any hearings about the proposed acquisition and will receive all notices and decisions issued by the Commission. Your comments must be postmarked no later than April 8, 2020.
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- Send an original to the Commission's Secretary and a copy to Judge Haas and Aqua's Counsel Thomas T. Niesen:

Secretary's Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
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Thomas T. Niesen  
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Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

- Your comments **must be postmarked no later than April 8, 2020.**

The documents filed related to this application are available on the PUC's website at [www.puc.pa.gov](http://www.puc.pa.gov), for inspection and copying at the Office of the Secretary of the PUC between 8 a.m. and 4:30 p.m., Monday through Friday, and at Aqua's offices at 762 West Lancaster Avenue, Bryn Mawr, PA 19010. For more information, please feel free to contact Aqua at 877.987.2782 or the PA Office of Consumer Advocate toll-free at 1.800.684.6560.

## **APPENDIX C**

### **TESTIMONY OF WILLIAM C. PACKER**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**AQUA PENNSYLVANIA WASTEWATER, INC.**

**DOCKET NO. A-2016-2580061**

**AQUA STATEMENT NO. 1 - REMAND**

**DIRECT TESTIMONY ON REMAND  
OF WILLIAM C. PACKER**

**With Regard To  
A History and Overview of the Proceeding and the Transaction  
Notice to Customers  
Ratemaking Impact  
Public Benefits of the Settlement**

**February 21, 2020**

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AQUA PENNSYLVANIA WASTEWATER, INC.  
DIRECT TESTIMONY ON REMAND OF WILLIAM C. PACKER

**I. INTRODUCTION**

**Q. Please state your name and business address.**

A. My name is William C. Packer. My business address is 762 West Lancaster Avenue,  
Bryn Mawr, Pennsylvania 19010.

**Q. By whom are you employed and in what capacity?**

A. I am employed by Aqua Pennsylvania, Inc. (“Aqua PA”), as Vice President – Controller  
and I also oversee certain financial operations for Aqua America, Inc. and its subsidiary  
Aqua New Jersey, Inc. Aqua PA is the parent company to Aqua Pennsylvania  
Wastewater, Inc. (“APW” or the “Company”).

**Q. Are you the same William C. Packer who testified in the initial phase of this  
proceeding at Docket No. A-2016-2580061?**

A. Yes. I submitted statements of direct and rebuttal testimony in the initial phase of this  
proceeding at Docket No. A-2016-2580061 and appeared to present my testimony at the  
evidentiary hearing on February 16, 2017. My understanding is that the evidentiary  
record from the initial phase proceeding, including my statements of direct and rebuttal  
testimony, will be incorporated into the record of this remand proceeding.

**Q. What is the purpose of your testimony on remand?**

A. I address the following in my testimony on remand:

- A History and Overview of the Proceeding and the Transaction
- Notice to Customers
- Ratemaking Impact
- Public Benefit and Support for Settlement

AQUA PENNSYLVANIA WASTEWATER, INC.  
DIRECT TESTIMONY ON REMAND OF WILLIAM C. PACKER

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**Q. Are you sponsoring any Exhibits with your testimony?**

A. Yes. I have included one Exhibit with my testimony. Exhibit A presents a non-binding, estimate of the ratemaking impact of ratemaking rate base of \$29,500,000 on New Garden wastewater customers and on existing water and wastewater customers of Aqua PA and APW.

**II. AN OVERVIEW OF THE PROCEEDING AND THE TRANSACTION**

**Q. Please provide a history and overview of the proceeding and the transaction.**

A. APW initiated the proceeding, on December 15, 2016, with the filing of its Application, pursuant to Sections 1102 and 1329 of the Public Utility Code (“Code”). APW’s Application was the first Application filed under Section 1329 of the Code.

The Application asked the Commission to approve APW’s acquisition of the wastewater system assets of New Garden Township (“Township”) and the New Garden Township Sewer Authority (“Authority”), collectively “New Garden”. The Application also asked the Commission for a determination of ratemaking rate base of \$29,500,000 for the wastewater system assets pursuant to Section 1329(c)(2) of the Code.

The Office of Consumer Advocate (“OCA”) filed a protest to the Application. The Bureau of Investigation and Enforcement (“I&E”) filed a Protest and an Amended Protest. The Office of Small Business Advocate filed a Notice of Appearance. The Township and the Authority filed Petitions to Intervene in support of the Application.

In an Opinion and Order entered June 29, 2017 (“Order entered June 29”), the Commission granted APW’s Application and approved APW’s acquisition of the New

AQUA PENNSYLVANIA WASTEWATER, INC.  
DIRECT TESTIMONY ON REMAND OF WILLIAM C. PACKER

1 Garden wastewater system assets and a ratemaking rate base of \$29,500,000 pursuant to  
2 Section 1329(c)(2).

3 The OCA appealed the Commission decision to the Commonwealth Court in  
4 *McCloskey v. Pa. P.U.C.* (“*McCloskey*”). The Court vacated the Order entered June 29,  
5 2017 and remanded the matter to the Commission. APW filed a petition for allowance of  
6 appeal with the Supreme Court of Pennsylvania, which that Court denied.<sup>1</sup>

7 The Commission assigned the remand proceeding to Administrative Law Judge  
8 Steven K. Haas. A prehearing conference in the remand proceeding was held on  
9 November 13, 2019.

10  
11 **III. NOTICE TO CUSTOMERS**

12 **Q. In *McCloskey*, the Commonwealth Court directed the Commission to provide notice**  
13 **to all ratepayers. Is notice being provided to all ratepayers?**

14 A. Yes. As part of the Joint Petition for Settlement of Remand Proceeding (“Joint Petition”)  
15 discussed later in my testimony, Joint Petitioners have agreed that Aqua PA and APW  
16 will provide the Notice of Proposed Acquisition and Rate Base Addition to its water and  
17 wastewater customers and that New Garden will provide the Notice of Proposed  
18 Acquisition and Rate Base Addition to its wastewater customers, included with the Joint  
19 Petition as Appendices A and B, respectively. The Notices present an explanation of the  
20 settlement, including a non-binding incremental estimate of the rate effect of the  
21 proposed rate base addition, and provide customers with an opportunity to file written

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<sup>1</sup> I am advised by Counsel that the legal citation to the Commonwealth Court proceeding and decision is *McCloskey v. Pa. P.U.C.*, 195 A.3d 1055 (Pa. Cmwlth. 2018), *petition for allowance of appeal denied* No. 703 MAL 2018 (April 23, 2019)



AQUA PENNSYLVANIA WASTEWATER, INC.  
DIRECT TESTIMONY ON REMAND OF WILLIAM C. PACKER

1 comments to the Joint Petition or request a hearing. APW will provide its customer  
2 notice via bill insert. New Garden will provide its customer notice via direct mailing  
3 during the period APW is providing notice. The notices are in accordance with 52 Pa.  
4 Code § 53.45 and the Commission's Final Supplemental Implementation Order entered  
5 February 28, 2019 in Docket No. M-2016-2543193.

6  
7 **IV. RATEMAKING IMPACT**

8 **Q. In *McCloskey*, the Commonwealth Court concluded that the Commission must**  
9 **address rate impact “in a general fashion” when deciding whether there is**  
10 **substantial public benefit to a transaction. Please address the rate impact of the**  
11 **transaction.**

12 A. In Exhibit A to my testimony, I present a non-binding, estimate of the bill impact on New  
13 Garden customers and on existing water and wastewater customers of Aqua PA and  
14 APW of a ratemaking rate base addition of \$29,500,000. APW is implementing New  
15 Garden's current sewer ordinance which includes a 10% increase effective in November  
16 2018, a 9.56% increase effective in November 2019, and an 8.76% increase effective in  
17 November 2020. The November 2020 rates will stay in effect until the Company's next  
18 rate case. The average monthly bill of a residential customer in New Garden after the  
19 November 2020 increase will be approximately \$69.21 per month using 3,750 gallons.  
20 As my calculations in Exhibit A demonstrate, by applying 100% of the revenue  
21 deficiency to the rates in effect at November 2020, the average bill of a New Garden  
22 customer could increase to approximately \$105 per month or a 52% increase.

AQUA PENNSYLVANIA WASTEWATER, INC.  
DIRECT TESTIMONY ON REMAND OF WILLIAM C. PACKER

1           Regarding APW's existing customers, the current weighted average monthly bill  
2           for APW's existing residential customers is approximately \$68.27 using 3,020 gallons.  
3           As my calculations in Exhibit A demonstrate, by applying 50% of the revenue deficiency  
4           to APW's existing customers the average monthly bill of residential customers could  
5           increase to approximately \$70.39, or 3.10%. If 25% of the revenue deficiency is shifted  
6           to Aqua PA's existing water customers through Act 11<sup>2</sup>, it could result in an increase of  
7           \$0.16, or 0.25% to residential customers.

8  
9   **Q.    Are the rate impacts you explained above guaranteed to occur in Aqua PA and**  
10   **APW's next base rate case?**

11   A.    No. As stated in the notices, the impacts to customers presented in the notices attached to  
12           the Joint Petition as Appendices A and B, and supported by Exhibit A to my testimony,  
13           represent a non-binding, estimated incremental rate effect of the proposed rate base  
14           addition. The estimated rate effect could change and will depend on how the  
15           Commission chooses to apportion any increase among the types of service, rate zones, and  
16           classes of customers.

17  
18   **V.    PUBLIC BENEFITS OF THE SETTLEMENT**

19   **Q.    What did the Commonwealth Court require in remanding the proceeding back to**  
20   **the Commission?**

---

<sup>2</sup> 66 Pa. C.S. 1311(c).

AQUA PENNSYLVANIA WASTEWATER, INC.  
DIRECT TESTIMONY ON REMAND OF WILLIAM C. PACKER

1 A. I am not an attorney but my reading of the Opinion is that the Court remanded the matter  
2 to the Commission for a determination whether the impact on rates is outweighed by the  
3 other positive factors supporting that the acquisition served a substantial public benefit.

4  
5 **Q. Is the impact on rates outweighed by other positive factors from the transaction as**  
6 **modified by the Joint Petition?**

7 A. Yes. While there is a potential of increased rates as a result of the transaction, this is not  
8 unexpected. The possibility of increased rates is noted by the Commonwealth Court in  
9 *McCloskey*. The positive factors from the transaction as modified by the Joint Petition  
10 outweigh the possibility of increased rates. The settlement addresses the matters of  
11 concern expressed by the Commonwealth Court in *McCloskey* and provides several  
12 public benefits, including, but not limited to, that it:

- 13 • provides that APW will move New Garden rates toward their cost of service in  
14 APW's next base rate case, thereby limiting subsidization by existing customers;  
15 however, it also provides a rate increase limitation to the New Garden customers  
16 of no more than two times the system average increase of AWP's wastewater  
17 division. These provisions will protect the Company's existing customers and the  
18 newly acquired New Garden customers.
- 19 • directs that APW will provide a bill insert or welcome letter describing its low  
20 income assistance programs, a description of the eligibility requirements, and  
21 APW's contact information. This provision will ensure that the newly acquired  
22 customers are informed of and will be able to take advantage of APW's low  
23 income programs.

AQUA PENNSYLVANIA WASTEWATER, INC.  
DIRECT TESTIMONY ON REMAND OF WILLIAM C. PACKER

- 1           • removes the compound annual growth rate (“CAGR”) and Rate Freeze from the  
2           Assets Purchase Agreement. By removing the CAGR and Rate Freeze it will  
3           allow rates for the acquired customers to increase, subject to the rate restrictions  
4           in the settlement, and ensure that existing customers are not substantially  
5           impacted.
- 6           • establishes that APW will amend its Long-Term Infrastructure Improvement plan  
7           to include New Garden before charging the Distribution System Improvement  
8           Charge to New Garden wastewater customers.
- 9           • provides that APW will submit a separate cost of service study for the New  
10          Garden wastewater system in its next base rate case.
- 11          • preserves the parties’ arguments regarding future claims of Allowance for Funds  
12          Used During Construction, deferral of depreciation, and transactions costs.
- 13          • will allow APW and New Garden to move to closing the transaction.

14

15   **VI.   CONCLUSION**

16   **Q.   Does this conclude your testimony on remand?**

17       Yes, it does.

**Aqua Pennsylvania Wastewater, Inc.  
New Garden Wastewater System**

1.) **New Garden Wastewater System**

	<u>Year 1</u>	<u>Notes</u>
Revenue	\$ 2,860,343	
O&M	714,390	
Depreciation	808,908	***2.72% Composite Depreciation Rate
Taxes Other	31,037	
Income Taxes	\$ 202,799	*****21% Federal & 9.99% State
<b>Operating Income</b>	<b>\$ 1,103,210</b>	
Rate Base at Fair Market Value	\$ 29,500,000	
Capital Investments (Year 1)	\$ 239,250	
Rate Base (Including Capital Investments less depreciation year 1)	\$ 28,930,342	
Interest Expense ^	604,281	
^ Includes Interest Expense synchronized with rate base		
<b>Required Operating Income (Rate Base x Rate of Return)</b>	<b>\$ 2,133,250</b>	
<b>Operating Income Deficiency</b>	<b>\$ 1,030,040</b>	
Gross Revenue Conversion Factor	1.432171	
<b>Revenue Deficiency (Excess) \$</b>	<b>\$ 1,475,000</b>	
<b>Revenue Deficiency (Excess) %</b>	<b>51.57%</b>	
<b>Increase applied to Acquired (TWP) customers 100%</b>	<b>\$ 1,475,000</b>	
<b>Increase %</b>	<b>51.57%</b>	
<b>Increase applied to Acquired (TWP) customers 50%</b>	<b>\$ 737,500</b>	
<b>Increase %</b>	<b>25.78%</b>	
<b>Increase applied to Existing (Company Wastewater) customers 50%</b>	<b>\$ 737,500</b>	
<b>Increase %</b>	<b>3.10%</b>	
<b>Increase applied to Existing (Company Water) customers (Act 11)</b>	<b>\$ 1,083,836</b>	
<b>Increase %</b>	<b>0.25%</b>	

	<u>Avg. Usage / Kgal</u>	<u>Estimated Monthly Increase</u>	<u>Estimated Percentage Increase</u>
Impact Existing Customers (TWP) - Residential 100%	3.75	\$ 35.69	51.57%
Impact Existing Customers (TWP) - Commercial 100%	7.82	\$ 101.74	51.57%
Impact Existing Customers (TWP) - Industrial 100%	0.00	\$ -	51.57%
Impact Existing Customers (TWP) - Other 100%	0.00	\$ -	51.57%
Impact Existing Customers (TWP) - Residential 50%	3.75	\$ 17.85	25.78%
Impact Existing Customers (TWP) - Commercial 50%	7.82	\$ 50.87	25.78%
Impact Existing Customers (TWP) - Industrial 50%	0.00	\$ -	25.78%
Impact Existing Customers (TWP) - Other 50%	0.00	\$ -	25.78%
Impact Existing Customers (Company Wastewater) - Residential - 50%	3.02	\$ 2.12	3.10%
Impact Existing Customers (Company Wastewater) - Commercial - 50%	21.94	\$ 6.66	3.10%
Impact Existing Customers (Company Wastewater) - Industrial - 50%	3.20	\$ 1.72	3.10%
Impact Existing Customers (Company Water) - Residential	4.08	\$ 0.16	0.25%
Impact Existing Customers (Company Water) - Commercial	37.05	\$ 1.02	0.25%
Impact Existing Customers (Company Water) - Industrial	211.51	\$ 4.80	0.25%

2.) **Rate of Return**

	<u>Ratio</u>	<u>Cost Rate</u>	<u>WACC</u>
Debt	47.15%	4.43%	2.09%
Equity	52.85%	10.00%	5.29%
	100.00%		7.37%

3.) **Gross Revenue Conversion Factor**

Dollar of Revenue		1.0000
Less: Gross Receipts (Revenue) Tax	0.00%	0.0000
Less: Reg Assessments	0.62%	0.0062
Less: Bad Debts	1.17%	0.0117
State Taxable Income		0.982053
State Income Tax	9.9999%	0.0982
Federal Taxable Income		0.883848772
Federal Tax Rate	21.00%	
Federal Income Tax		0.185608
Net Revenue Dollar		0.69824052992
Gross Revenue Conversion Factor		1.43217123
EFT	28.8999%	

**Aqua Pennsylvania Wastewater, Inc.**  
**Calculation of New Garden Wastewater - Present Revenues**

	<u>Usage (Kgals)</u>	<u>Revenue*</u>
1,916 Residential customers ^		
Base rate of \$112.91 per quarter for 0 to 5,000 gallons x 4 quarters	9,580	\$ 865,000
Charges per quarter for 5,001 to 15,000 gallons x 4 quarters	17,826	\$ 270,422
Charges per quarter over 15,000 gallons x 4 quarters	58,759	\$ 1,154,607
Average Monthly Usage - Residential Class	3.75	
	45	
171 Commercial 1 customers ^		
Base rate of \$158.12 per quarter for 0 to 5,000 gallons x 4 quarters	855	\$ 108,000
Charges per quarter for 5,001 to 15,000 gallons x 4 quarters	13,149	\$ 309,011
Charges per quarter over 15,000 gallons x 4 quarters	0	\$ -
Average Monthly Usage - Commercial 1 Class	6.82	
19 Commercial 2 customers ^		
Base rate of \$192.92 per quarter for 0 to 5,000 gallons x 4 quarters	95	\$ 15,000
Charges per quarter for 5,001 to 15,000 gallons x 4 quarters	1,977	\$ 65,281
Charges per quarter over 15,000 gallons x 4 quarters	1,752	\$ 73,022
Average Monthly Usage - Commercial 2 Class	16.77	
Average Monthly Usage - Commercial 1 & 2 Class	7.82	
0 Industrial customers ^		
Base rate of \$423.50 per quarter for 0 to 5,000 gallons x 4 quarters	0	\$ -
Charges per quarter for 5,001 to 15,000 gallons x 4 quarters	0	\$ -
Charges per quarter over 15,000 gallons x 4 quarters	0	\$ -
Total Annual Projected Revenue		\$ 2,860,343

\*Rates Based on Sewer Rate Ordinance No. 232 - 11/19/2018 (Year 3)

^ Connections As filed from Original Application to PUC

***Aqua Pennsylvania Wastewater, Inc.***  
***Calculation of New Garden - O&M Expenses***

OPERATING AND MAINTENANCE EXPENSES:

	<u>Year 1</u>
O&M Labor Exp Reg	\$ 89,000
O&M Labor Exp OT	8,900
O&M Employee Benefits	53,400
O&M Purchased WW Treatment	215,000
O&M Cust Ops ACO (@ \$10.00 per customer)	21,390
O&M OS Lab Testing	30,000
O&M OS Maintenance	47,500
O&M OS Other	153,000
O&M Insurance	10,000
O&M Bad Debt	11,000
O&M Other	75,200
<b>Total O&amp;M Expenses =&gt;</b>	<b><u>\$ 714,390</u></b>

***Aqua Pennsylvania Wastewater, Inc.******Calculation of New Garden Wastewater - Other Taxes*****TAXES OTHER THAN INCOME (PRE-RATE CASE)**

Payroll Taxes (FICA, FUTA, SUTA)

Property Taxes / (Purta)

Regulatory Assessments

**Total**

<u>Rate</u>	<u>Year 1</u>
8.000%	\$ 7,832
	\$ -
0.624%	\$ 23,205
	<u>\$ 31,037</u>



Docket No. R-2018-3003558

Schedule A-2  
Witness: William C. Packer

**AQUA PENNSYLVANIA, INC.**  
NUMBER OF CUSTOMERS SERVED  
AND WHOSE BILLS WILL BE CHANGED

LINE NO.	CUSTOMER CLASS (1)	SERVED AT 3/31/2017 (2)	SERVED AT 3/31/2018 (3)	TO BE SERVED AT 3/31/2019 (4)	TO BE SERVED AT 3/31/2020 (5)	INCREASED BILLS (6)	DECREASED BILLS (7)	UNCHANGED BILLS (8)
1	Metered:							
2	Residential	391,514	394,192	395,423	396,654	396,654	-	-
3	Commercial	22,264	22,460	22,598	22,737	22,733	4	-
4	Industrial	751	779	776	773	773	-	-
5	Public	1,254	1,256	1,256	1,256	1,256	-	-
6	Bulk Water	-	-	-	-	-	-	-
7	Private Fire Protection	5,187	5,301	5,403	5,504	5,504	-	-
8	Sales to Water Utilities	17	16	16	16	16	-	-
9	Total Metered Customers	421,027	424,004	425,472	426,540	426,540	4	-
10	Other:							
11	Unmetered	903	943	943	943	943	-	-
12	Availability Charge	2,801	2,789	-	-	-	2,789	-
13	Public Fire Protection	253	253	263	263	263	-	-
14	Private Fire Protection	766	779	779	779	779	-	-
15	Total Customers	425,780	428,154	427,457	428,925	428,921	2,773	-

Docket No. R-2018-3003561

Schedule A-2  
Witness: William C. Packer

**AQUA PENNSYLVANIA WASTEWATER, INC.**  
NUMBER OF CUSTOMERS SERVED  
AND WHOSE BILLS WILL BE CHANGED

LINE NO.	CUSTOMER CLASS (1)	SERVED AT 3/31/2017 (2)	SERVED AT 3/31/2018 (3)	TO BE SERVED AT 3/31/2019 (4)	TO BE SERVED AT 3/31/2020 (5)	INCREASED BILLS (6)	DECREASED BILLS (7)	UNCHANGED BILLS (8)
1	Residential	16,062	17,051	17,051	17,051	16,981	-	70
2	Commercial	1,324	1,469	1,469	1,469	1,427	42	-
3	Industrial	1	1	1	1	-	-	-
4	Public	38	40	40	40	40	-	-
5	Miscellaneous	-	-	-	-	-	-	-
6	Availability Charge	489	446	-	-	-	446	-
7	Total Customers	17,894	19,007	18,561	18,561	18,448	488	70
ADD:								
	Limerick Res				4,882			
	Com				315			
	Ind				-			
	East Bradford Res				1,213			
	Com				33			
	Ind				2			

Wastewater Settlement Revenues => Exhibit 1(b) from 2018/2019 APWW Rate Case =>  
 Add East Bradford WW \$ 17,920,976  
 Add Limerick WW \$ 1,082,402  
 Add Miscellaneous \$ 6,771,000  
 Total Existing Revenues \$ 23,774,378

Docket No. R-2018-3003558

Water Settlement Revenues => Exhibit 1(b) from 2018/2019 APWW Rate Case =>  
 Residential \$ 307,623,471  
 Commercial \$ 111,880,600  
 Industrial Revenues \$ 16,482,317  
 Total Existing Revenues (Res, Com, & Ind classes) \$ 435,986,388

**AQUA PENNSYLVANIA, INC.**  
1-A(a) WATER AND 1-B(b) WASTEWATER REVENUE REQUIREMENT - SUMMARY

	Total Company	Water Operations	Wastewater Operations
Present Rate Revenue	\$ 444,856,981	\$ 431,415,676	\$ 13,443,305
Additional Revenue Requirement	47,002,319	35,263,332	11,738,987
Act 11 Allocation (1)	-	7,261,316	(7,261,316)
Proposed Revenues	<u>\$ 491,859,300</u>	<u>\$ 473,940,324</u>	<u>\$ 17,920,976</u>
Rate Increase/(Decrease) - \$	\$ 47,002,319	\$ 42,524,648	\$ 4,477,671
Rate Increase/(Decrease) - %	10.57%	9.86%	33.31%

Notes:  
 (1) The allocation between wastewater operations and water operations is achieved by the proposed consolidation of water and wastewater revenue requirements to derive the water and wastewater rates proposed by the Company in this case.

Aqua Pennsylvania, Inc  
Residential Average Monthly Bill Comparison - Wastewater  
Docket Nos. A-2018-3004108, A-2018-3004109, R-2018-3003558 and R-2018-3003561

	<u>Current Division</u>	<u>New Rate Zone</u>	<u>Avg Consumption</u>	<u>Present Rates</u>	<u>Settlement Rates</u>	<u>\$ Change</u>	<u>% Change</u>	<u>Metered Number of Bills</u>	<u>Metered &amp; Unmetered Number of Bills</u>
1	Bridlewood Division	1	4,100	43.04	67.48	24.44	56.79%	3,908	3,908
2	CS Sewer Division (Masthope)	6	1,300	28.99	40.94	11.95	41.22%	15,517	15,578
3	Deerfield Knoll Division	3	3,000	57.87	71.50	13.63	23.55%	1,426	1,426
4	Eagle Rock Division	1	1,900	39.67	45.44	5.77	14.54%	11,704	11,716
5	East Bradford Division	5	5,400	106.43	125.84	19.41	18.24%	972	972
6	Laurel Lakes Division	3	4,200	51.49	81.70	30.21	58.67%	2,348	2,372
7	Links at Gettysburg Division	3	2,700	63.58	68.95	5.37	8.45%	2,046	2,046
8	Little Washington Division	5	3,400	98.05	106.64	8.59	8.76%	4,152	4,164
9	Media Division	1	4,200	42.19	62.92	20.73	49.13%	20,733	20,773
10	Newlin Green Division	5*	6,500	158.75	158.75	0.00	0.00%	588	588
11	Peddlers View Division	4	4,100	78.44	100.95	22.51	28.70%	2,564	2,564
12	Penn Township Division	1B	3,400	40.70	55.00	14.30	35.14%	3,148	3,148
13	Plumsock Division	5	5,300	107.12	124.88	17.76	16.58%	456	456
14	Rivercrest Division	2	3,200	45.22	61.92	16.70	36.93%	5,785	5,869
15	Stony Creek Division	3	2,500	54.86	67.25	12.39	22.58%	2,558	2,558
16	The Greens at Penn Oaks Division	5	3,500	106.38	107.60	1.22	1.15%	838	850
17	Thornhurst Division	3	2,600	52.36	68.10	15.74	30.06%	3,538	3,538
18	Treasure Lake Division	1A	3,000	40.52	49.90	9.38	23.15%	25,259	25,590
19	Twin Hills Division	4	4,200	70.15	101.90	31.75	45.26%	3,947	3,947
20	White Haven Division	2	2,900	47.07	59.49	12.42	26.39%	5,568	5,736
21	Willistown Woods Division	3	3,100	54.92	72.35	17.43	31.74%	8,888	8,888
22	Woodloch Springs Division	3	2,000	51.87	63.00	11.13	21.46%	4,907	4,987
23	Beech Mountain Lakes Division	3	Unmetered	56.04	80.00	23.96	42.76%		11,234
24	Bunker Hill Subdivision	1A	Unmetered	31.92	56.20	24.28	76.07%		790
25	Emlenton Borough Division	2	Unmetered	45.00	68.40	23.40	52.00%		4,416
26	Honeycroft Village Division	4	Unmetered	66.67	100.00	33.33	49.99%		1,250
27	Lake Harmony Division	4	Unmetered	65.63	100.00	34.37	52.37%		12,033
28	New Daleville Division	4	Unmetered	74.17	100.00	25.83	34.83%		1,272
29	Pinecrest Division	2	Unmetered	\$44.28	\$68.40	\$24.12	54.48%		4,002
30	Tobyhanna Township Division	4	Unmetered	66.67	100.00	33.33	49.99%		6,453
31	Sage Hill	5*	Unmetered	180.00	180.00	0.00	0.00%		251
			<b>WEIGHTED AVERAGE Metered</b>	<b>3,018</b>	<b>62.09</b>				
			<b>WEIGHTED AVERAGE ALL</b>		<b>68.27</b>				

5\* - Special Charges have been assigned to these divisions within Rate Zone 5.


All Residential Customers are charged a customer charge on an LDU basis with the exception of the Media and Treasure Lake Divisions, which are charged a customer charge based on the appropriate meter size of the applicable Rate Zone. Media and Treasure Lake rates above represent a 5/8" meter.

Pinecrest Division's Present Rate is based on the weighted average of the present rates of all customers both inside Pinecrest and outside Pinecrest.

Bridlewood Division's Average Consumption and Present Rate are based on the weighted average of both townhome and single family home customers.

As per the Asset Purchase Agreement, the Tobyhanna Division rate increase will not become effective until January 1, 2020.

Aqua PennsylvRania, Inc  
Commercial ARerage Monthly Bill Comparison - Wastewater  
Docket Nos. A-2018-3004108, A-2018-3004109, R-2018-3003558 and R-2018-3003561

	<u>Current Division</u>	<u>New Rate Zone</u>	<u>Avg Consumption</u>	<u>Present Rates</u>	<u>Settlement Rates</u>	<u>\$ Change</u>	<u>% Change</u>	<u>Number of Bills</u>
1	CS Sewer Division (Masthope)	6	24,800	41.33	64.44	23.11	56%	96
2	Eagle Rock Division	1	11,700	52.02	124.92	72.90	140%	323
3	Links at Gettysburg Division	3	20,000	216.93	216.00	-0.93	0%	24
4	Media Division	1	15,700	111.87	150.32	38.45	34%	3,388
5	Penn Township Division	1B	88,800	873.10	955.50	82.40	9%	507
6	Rivercrest Division	2	12,200	92.66	134.82	42.16	45%	108
7	The Greens at Penn Oaks Division	5	78,400	798.26	1,122.64	324.38	41%	12
8	Tobyhanna Township Division	4	9,600	86.00	153.20	67.20	78%	1449
9	Treasure Lake Division	1A	31,700	153.53	230.71	77.18	50%	382
10	Village at Valley Forge Division	1A	144,500	1,054.42	1,220.35	165.93	16%	243
11	White Haven Division	2	5,700	50.60	82.17	31.57	62%	463
12	Willistown Woods Division	3	3,200	55.23	73.20	17.97	33%	1,428
13	Woodloch Springs Division	3	117,000	62.62	71.50	8.88	14%	98
14	Avon Grove School District	5*	Unmetered	6,625.00	8,281.25	1656.25	25%	
15	Beech Mountain Lakes Division	3	Unmetered	69.74	80.00	10.26	15%	
16	Bridlewood Division	1	Unmetered	38.42	61.40	22.98	60%	
17	Emlenton Borough Division	2	Unmetered	45.00	68.40	23.40	52%	
18	Honeycroft Rillage Division	4	Unmetered	466.69	700.00	233.31	50%	
19	Lake Harmony Division	4	Unmetered	65.63	100.00	34.37	52%	
20	Pinecrest Division	2	Unmetered	\$52.32	\$68.40	16.08	31%	
<b>WEIGHTED AVERAGE - METERED ONLY</b>			<b>21,936</b>		<b>214.73</b>			

5\* - Special Charges have been assigned to these Divisions within Rate Zone 5.

All Residential Customers are charged a customer charge on an EDU basis with the exception of the Media and Treasure Lake Divisions, which are charged a customer charge based on the appropriate meter size of the applicable Rate Zone. Media and Treasure Lake rates above represent a 5/8" meter.

Bridlewood Division's Present Rate and Settlement Rate are based on the weighted average of the EDU rate charged to the 2 commercial customers.

Woodloch Springs Division's Present Rate and Settlement Rate are based on the customer charge per EDU.

As per the Asset Purchase Agreement, the Tobyhanna Division rate increase will not become effective until January 1, 2020.

Aqua Pennsylvania, Inc  
Industrial Average Monthly Bill Comparison - Wastewater  
Docket Nos. A-2018-3004108, A-2018-3004109, R-2018-3003558 and R-2018-3003561

	<u>Current Division</u>	<u>New Rate Zone</u>	<u>Meter Size</u>	<u>Avg Consumption</u>	<u>Present Rates</u>	<u>Settlement Rates</u>	<u>\$ Change</u>	<u>% Change</u>
7	Media Division	1	5/8"	3,200	36.13	55.32	19.19	53%

**Aqua Pennsylvania, Inc**  
**Residential Average Monthly Bill Comparison - Water**  
**Docket Nos. A-2018-3004108, A-2018-3004109, R-2018-3003558 and R-2018-3003561**

	<u>Current Division</u>	<u>New Rate Zone</u>	<u>Present Rates*</u>	<u>Settlement Rates*</u>	<u>\$ Change</u>	<u>% Change</u>	<u>Number of Bills</u>	<u>Consumption</u>	<u>Average Gallons</u>
1	Main Division Eagle Rock, Fawn Lake, Tanglewood, Thornhurst, Woodledge Village, Western & Pinecrest Divisions	1	\$59.85	\$65.52	\$5.67	9.47%	4,173,338	172,154,838	4,125
2	Bensalem Division	3	59.85	65.52	5.67	9.47%	36,516	737,618	2,020
3	Chalfont Division	1	55.80	65.52	9.72	17.42%	179,147	7,534,487	4,206
4	Oakland Beach/Lakeside Acres Division	2	47.27	65.52	18.25	38.61%	25,821	1,021,170	3,955
5	CS Water Division (Masthope)	3	57.04	65.52	8.48	14.87%	11,344	261,978	2,309
6	Country Club Gardens Division	3	49.36	65.52	16.16	32.74%	15,615	204,095	1,307
7	Clarendon Water Division	1	40.29	52.98	12.69	31.50%	4,979	223,135	4,482
8	Kratzerville Division	1	51.05	65.52	14.47	28.34%	3,407	109,345	3,210
9	Honesdale Division	1	52.29	65.52	13.23	25.30%	1,727	58,671	3,398
10	Sand Springs Division	1	52.20	65.52	13.32	25.52%	17,272	632,741	3,663
11	Mifflin Township Division	1	40.73	52.98	12.25	30.08%	5,023	168,199	3,349
12	Beech Mountain Lakes Division	1	37.11	50.64	13.53	36.46%	5,606	176,827	3,154
13	Treasure Lake Division	1	21.45	31.73	10.28	47.93%	11,187	369,388	3,302
14	Concord Park Division	2	27.20	40.15	12.95	47.61%	25,311	765,777	3,026
15	Bristol Township Water System Division	2	30.88	43.91	13.03	42.20%	1,980	77,030	3,890
16	Mt Jewett Borough Division	1	24.24	38.40	14.16	58.42%	5,089	226,795	4,457
17	Bunker Hill Subdivision	1	45.95	65.52	19.57	42.59%	4,832	155,007	3,208
18	Robin Hood Lakes Division	Bunker Hill	12.88	26.36	13.48	104.66%	779	31,897	4,097
19	East Cameron Division	1	40.16	53.09	12.93	32.20%	2,397	67,756	2,826
20	Sun Valley Division**	1	57.02	65.52	8.50	14.91%	609	12,076	1,982
21	Superior Water Company	Sun Valley	15.00	19.50	4.50	30.00%			
22		2	57.02	65.52	8.50	14.91%	47,018	2,045,060	4,350
<b>WEIGHTED AVERAGE</b>				<b>65.20</b>					<b>4,080</b>

\*Residential water rates are based on 5/8" meter and an average consumption of 4,080 gallons per month for all divisions.

\*\*Sun Valley customers are flat rate, unmetered customers.

Aqua Pennsylvania, Inc  
Commercial Average Monthly Bill Comparison - Water  
Docket Nos. A-2018-3004108, A-2018-3004109, R-2018-3003558 and R-2018-3003561

	<u>Current Division</u>	<u>New Rate Zone</u>	<u>Meter Size</u>	<u>Avg Consumption</u>	<u>Present Rates</u>	<u>Settlement Rates</u>	<u>\$ Change</u>	<u>% Change</u>	<u>Number of Bills</u>
1	Main Division Eagle Rock, Lawn Lake, Langlewood, Thornhurst, Woodledge Village, Western & Pinecrest Divisions	1	5/8"	37,800	\$380.00	\$419.63	\$39.63	10.43%	236,233
2	Bensalem Division	3	5/8"	13,800	171.34	186.73	15.39	8.98%	665
3	Chalfont Division	1	5/8"	50,700	468.54	531.51	62.97	13.44%	15,289
4	Oakland Beach/Lakeside Acres Division	2	5/8"	7,100	70.32	102.49	32.17	45.75%	1,678
5	CS Water Division (Masthope)	3	5/8"	5,500	84.39	93.45	9.06	10.74%	381
6	Country Club Gardens Division	3	5/8"	42,300	426.00	468.66	42.66	10.01%	57
7	Clarendon Water Division	1	5/8"	33,900	271.22	333.27	62.05	22.88%	11
8	Kratzerville Division	1	5/8"	9,900	93.91	135.81	41.90	44.62%	252
9	Honesdale Division	1	5/8"	7,600	82.56	108.44	25.88	31.35%	23
10	Sand Springs Division	1	5/8"	12,600	133.84	164.18	30.34	22.67%	3,789
11	Mifflin Township Division	1	2"	40,800	309.80	523.34	213.54	68.93%	12
12	Beech Mountain Lakes Division	1	5/8"	19,600	112.70	174.80	62.10	55.10%	369
13	Treasure Lake Division	1	5/8"	23,000	51.34	95.40	44.06	85.82%	60
14	Concord Park Division	2	5/8"	30,800	121.26	185.24	63.98	52.76%	393
15	Bristol Township Water System Division	2	4"	487,300	2,226.92	3,381.86	1,154.94	51.86%	12
16	Mt Jewett Borough Division	1	5/8"	14,800	116.15	146.76	30.61	26.35%	1,785
17	East Cameron Division	1	5/8"	2,200	33.07	44.18	11.11	33.60%	444
20	Superior Water Company	1	3/4"	300	50.00	34.04	(15.96)	-31.92%	28
22		2	5/8"	8,400	99.18	117.96	18.78	18.94%	1,077
	<b>WEIGHTED AVERAGE</b>			<b>37,047</b>		<b>409.72</b>			

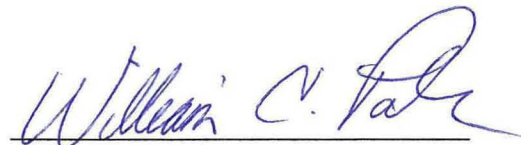
**Aqua Pennsylvania, Inc**  
**Industrial Average Monthly Bill Comparison - Water**  
**Docket Nos. A-2018-3004108, A-2018-3004109, R-2018-3003558 and R-2018-3003561**

	<u>Current Division</u>	<u>New Rate Zone</u>	<u>Meter Size</u>	<u>Avg Consumption</u>	<u>Present Rates</u>	<u>Settlement Rates</u>	<u>\$ Change</u>	<u>% Change</u>	<u>Number of Bills</u>
1	Main Division	1	5/8"	231,500	\$1,897.56	\$2,099.59	\$202.03	10.65%	8,254
3	Bensalem Division	1	1"	53,500	523.48	590.30	66.82	12.76%	853
4	Chalfont Division	2	2"	37,000	358.73	484.19	125.46	34.97%	57
5	Oakland Beach/Lakeside Acres Division	3	5/8"	76,500	691.26	765.28	74.02	10.71%	12
10	Honesdale Division	1	5/8"	23,200	222.27	275.01	52.74	23.73%	72
17	Mt Jewett Borough Division	1	1"	600	22.11	59.64	37.53	169.74%	24
	<b>WEIGHTED AVERAGE</b>			<b>211,513</b>		<b>1,930</b>			

**VERIFICATION**

I, William C. Packer, Vice President – Controller of Aqua Pennsylvania, Inc., hereby state that the facts set forth in my Direct Testimony on Remand, Aqua Statement No. 1 – Remand, at PaPUC Docket No. A-2016-2580061, are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: February 21, 2020

A handwritten signature in blue ink, appearing to read "William C. Packer", written over a horizontal line.

William C. Packer  
Vice President – Controller  
Aqua Pennsylvania, Inc.



## **APPENDIX D**

### **NEW GARDEN CURRENT RATE ORDINANCE**

NEW GARDEN TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 232

AN ORDINANCE PURSUANT TO THE SECOND CLASS TOWNSHIP CODE, AS AMENDED, AMENDING THE CODE OF ORDINANCES OF NEW GARDEN TOWNSHIP BY AMENDING CHAPTER 152, ARTICLE III, SEWER RENTS AND CHARGES, SECTIONS 152-12 AND 152-13, BY INCREASING THE QUARTERLY SEWER RENTAL CHARGES. EFFECTIVE FIVE DAYS FROM ENACTMENT.

AND NOW, this 19<sup>th</sup> day of November, 2018, the Board of Supervisors of New Garden Township hereby **ENACTS** and **ORDAINS** as follows:

**Section 1.** The Code of the Township of New Garden ("Code"); Chapter 152 Sewers, Article III, Sewer Rents and Charges, §152-12, Rents and charges for uses not discharging industrial waste, is amended to read as follows:

A. There is hereby imposed on the owner of each property served by the sewer system not discharging industrial waste, quarter-annual sewer rents and/or charges based upon the following classifications and in the following base minimum amounts:

(1) Base minimum quarterly sewer rent. Occupancy for periods of less than a full quarter will result in the quarterly sewer user charge being billed plus excess, if any.

{a) Each private dwelling; each dwelling unit in a double house or in-a row of connecting houses; each apartment, room, group of rooms, manufactured home or enclosure occupied or intended to be occupied as separate living quarters by a family or group of persons living together or by persons living alone, but excluding hotels, motels, or boarding houses: Year 1 = \$96.36, Year 2 = \$104.55 and Year 3 = \$112.91.

(b) Each commercial, retail, industrial or institutional establishment and each bedroom unit of a motel, hotel or boarding house, having sanitary facilities, including stores, food markets, professional offices, mushroom houses, automotive repair garage and establishments not regularly preparing and/or dispensing food or beverages, but excluding those uses enumerated in Subsection A(1)(c) below hereof, and excluding industrial establishments discharging biodegradable industrial waste which are governed by §152-13 hereof: Year 1 = \$133.71, Year 2 = \$146.41 and Year 3 = \$158.12.

(c) Each restaurant, bar, institution or establishment regularly preparing and/or dispensing food or beverages, whether for consumption on or off the premises, including but not limited to stores, food markets, delicatessens, food marts, schools, day-care centers, or other establishments requiring food handling licensing, and beauty parlor and service station: Year 1 = \$159.45, Year 2 = \$176.19 and Year 3 = \$192.92.

B. There is hereby imposed on the owner of each property served by the sewer system not discharging industrial waste, in addition to the base quarter-annual sewer rents and/or charges, additional rents and/or charges for discharge (based on water usage) in excess of 5,000 gallons per quarter, but less than 15,001 gallons per quarter, based upon the following classifications and in the following amounts:

(1) Excess I quarterly sewer rent. Occupancy for periods of less than a full quarter will result in the quarterly sewer user charge being billed plus excess, if any.

(a) Each private dwelling; each dwelling unit in a double house or in a row of connecting houses; each apartment, room, group of rooms, manufactured home or enclosure occupied or intended to be occupied as separate living quarters by a family or group of persons living together or by persons living alone, but excluding hotels, motels or boarding houses: Year 1 = \$12.71, Year 2 = \$13.91 and Year 3 = \$15.17 per 1,000 gallons or any fraction thereof.

(b) Each commercial, retail, industrial or institutional establishment and each bedroom unit of a motel, hotel or boarding house, having sanitary facilities, including stores, food markets, professional offices, mushroom houses, automotive repair garages and establishments not regularly preparing and/or dispensing food or beverages, but excluding those uses enumerated in Subsection B(l)(c) below hereof, and excluding industrial establishments discharging biodegradable industrial waste which are governed by §152-13 hereof: Year 1 = \$19.51, Year 2 = \$21.56 and Year 3 = \$23.50 per 1,000 gallons or any fraction thereof.

(c) Each restaurant, bar, institution or establishment regularly preparing and/or dispensing food or beverages, whether for consumption on or off the premises, including but not limited to stores, food markets, delicatessens, food marts, schools, day-care centers, or other establishments requiring food handling licensing, and beauty parlor and service station: Year 1 = \$26.80, Year 2 = \$29.88 and Year 3 = \$33.02 per 1,000 gallons or any fraction thereof.

C. There is hereby imposed on the owner of each property served by the sewer system not discharging industrial waste, in addition to the base quarter-annual sewer rents and/or charges, additional rents and/or charges for discharge (based on water usage) in excess of 15,000 gallons per quarter, based upon the following classifications and in the following amounts:

(1) Excess II quarterly sewer rent. Occupancy for periods of less than a full quarter will result in the quarterly sewer user charge being billed plus excess, if any.

(a) Each private dwelling; each dwelling unit in a double house or in a row of connecting houses; each apartment, room, group of rooms, manufactured home or enclosure occupied or intended to be occupied as separate living quarters by a family or group of persons living together or by persons living alone, but excluding hotels, motels or boarding houses: Year 1 = \$16.17, Year 2 = \$17.87 and Year 3 = \$19.65 per 1,000 gallons or any fraction thereof.



- (b) Each commercial, retail, industrial or institutional establishment and each bedroom unit of a motel, hotel or boarding house, having sanitary facilities, including stores, food markets, professional offices, mushroom houses, automotive repair garages and establishments not regularly preparing and/or dispensing food or beverages, but excluding those uses enumerated in Subsection C(1)(c) below hereof, and excluding industrial establishments discharging biodegradable industrial waste which are governed by §152-13 hereof: Year 1 = \$24.47, Year 2 = \$27.28 and Year 3 = \$30.15 per 1,000 gallons or any fraction thereof.
  - (c) Each restaurant, bar, institution or establishment regularly preparing and/or dispensing food or beverages, whether for consumption on or off the premises, including but not limited to stores, food markets, delicatessens, food marts, schools, day-care centers, or other establishments requiring food handling licensing, and beauty parlor and service station: Year 1 = \$33.22, Year 2 = \$37.37 and Year 3 = \$41.67 per 1,000 gallons or any fraction thereof.
- D. If two or more of the use classifications specified in Subsections A, B and C above of this §152-12 exist in one building and have the use of the sewer system through one sewer connection, the charge applicable to both or all of such use classifications shall be imposed as if there were a separate connection for each of the use classifications.
- E. With respect to the references hereinabove to Year 1, Year 2 and Year 3, the consumption/ use period associated with: Year 1 starts with the water meter reading date in November 2018 and ends with the water meter reading date in November 2019, Year 2 starts with the water meter reading date in November 2019 and ends with the water meter reading date in November 2020 and Year 3 starts with the water meter reading date in November 2020 and continues in effect until amended.

**Section 2.** The Code, Chapter 152 Sewers, Article III, Sewer Rents and Charges, §152-13, Rents and charges for uses discharging industrial waste, Subsection A, is amended to read as follows:

- A. There is hereby imposed on the owner of each property served by the sewer system and discharging industrial waste into the sewer system, based on the volume of metered water usage, quarter-annual sewer rents or charges, as follows:
- (1) The base minimum quarter-annual sewer rent shall be: Year 1 = \$476.44, Year 2 = \$531.23 and Year 3 = \$587.01 for the first 5,000 gallons of sewage discharged. Thereafter, the excess quarter-annual sewer rent shall be: Year 1 = \$34.33, Year 2 = \$38.63 and Year 3 = \$43.07 for each 1,000 gallons of sewage discharged, or fraction thereof, in excess of 5,000 gallons per quarter, but less than 15,001 gallons per quarter, and: Year 1 = \$45.34, Year 2 = \$51.46 and Year 3 = \$57.90 for each 1,000 gallons of sewage discharged, or fraction thereof, in excess of 15,000 gallons per quarter.
  - (2) With respect to the references hereinabove to Year 1, Year 2 and Year 3, the consumption/ use period associated with: Year 1 starts with the water meter reading date in November 2018 and


ends with the water meter reading date in November 2019, Year 2 starts with the water meter reading date in November 2019 and ends with the water meter reading date in November 2020 and Year 3 starts with the water meter reading date in November 2020 and continues in effect until amended.

**Section 3.** This Ordinance shall be effective five (5) days from the date of enactment.

**ENACTED** and **ORDAINED** this 19<sup>th</sup> day of November, 2018.

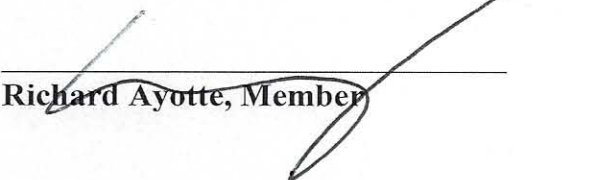
**BOARD OF SUPERVISORS OF  
NEW GARDEN TOWNSHIP**

  
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**Randy Geouque, Chairman**

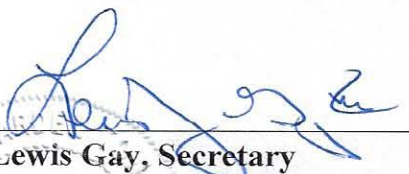
  
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**Mike Loftus, Vice Chairman**

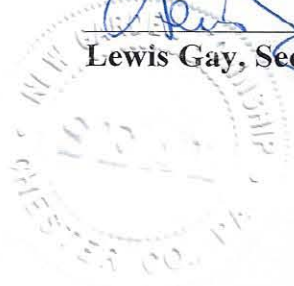
  
\_\_\_\_\_  
**J. Patrick Little, Member**

  
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**Stephen Allaband, Member**

  
\_\_\_\_\_  
**Richard Ayotte, Member**

**ATTEST:**

  
\_\_\_\_\_  
**Lewis Gay, Secretary**



**APPENDIX E**

**THIRD AMENDMENT TO  
ASSET PURCHASE AGREEMENT**

### THIRD AMENDMENT TO ASSET PURCHASE AGREEMENT

This **Third Amendment** to Asset Purchase Agreement (this "Third Amendment"), is made and entered into as of September 23, 2019, by and between New Garden Township, Chester County, a Pennsylvania second-class township, and New Garden Township Sewer Authority, a Pennsylvania municipal authority (hereinafter referred to collectively as ("**Seller**"), and Aqua Pennsylvania Wastewater, Inc., a Pennsylvania corporation ("**Buyer**").

#### BACKGROUND

A. Seller and Buyer entered into a certain Asset Purchase Agreement dated August 19, 2016, as amended by that certain Amendment to Asset Purchase Agreement dated as of October 17, 2016, and by that certain Second Amendment to Asset Purchase Agreement dated as of November 16, 2016 (collectively, the "Asset Purchase Agreement"), pursuant to which Seller agreed to sell, and Buyer agreed to purchase, the Seller's System Assets, all upon the terms and conditions set forth in the Asset Purchase Agreement.

B. Seller and Buyer wish to amend the Asset Purchase Agreement on the terms and conditions hereinafter set forth to memorialize the rates that Aqua will adopt following Closing.

#### AGREEMENTS

**NOW, THEREFORE**, in consideration of the sum of **Ten Dollars (\$10.00)** and other good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound thereby, the parties agree as follows:

1. Unless otherwise defined in this Third Amendment, all terms defined in the Asset Purchase Agreement shall have the same meanings when used in this Third Amendment. The Background of this Third Amendment, above, is hereby incorporated within and forms a part of the agreements contained in this Third Amendment.

2. Subsection b of Section 7 of the Asset Purchase Agreement is deleted in its entirety and the following is inserted in lieu thereof:

b. Following Closing Aqua will enact the rates, sewer rents and/or charges set forth under New Garden Township Ordinance No. 232 enacted the 19<sup>th</sup> day of November 2018, including the planned increases set forth in said ordinance. Such rates, sewer rents and/or charges will continue to remain in effect until such time as the PA PUC rules on Aqua's first base rate proceeding which includes the New Garden Township sewer system. The parties acknowledge and agree that following Closing pass-through costs or charges imposed by the Commonwealth of Pennsylvania, including, but not limited to State Tax Adjustment Surcharges, may be subject to increase and will not be limited by the terms of

Ordinance No. 232. For purposes of this Section 7.b, "rates, sewer rents and/or charges set forth under New Garden Township Ordinance No. 232" shall mean and include only customer services charges and consumption charges.

3. Subsection c of Section 7 of the Asset Purchase Agreement is deleted in its entirety and the following is inserted in lieu thereof: "Buyer may change its rate structure in Buyer's first base rate proceeding following Closing that includes New Garden Township sewer system."

4. The provisions of this Third Amendment modify and form a part of the Asset Purchase Agreement. In the event of any conflict or inconsistency between the terms of this Third Amendment and the remaining terms of the Asset Purchase Agreement, the terms of this Third Amendment shall govern control.

5. This Third Amendment may be executed by facsimile, electronically or by exchange of documents in PDF format, and in several counterparts, each of which shall be deemed an original instrument and all of which together shall constitute a single agreement. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

*Balance of page intentionally left blank – signatures appear on following page*

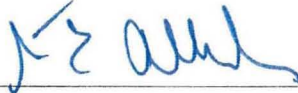


*Signature page – Third Amendment to Asset Purchase Agreement*

**IN WITNESS WHEREOF**, intending to be legally bound, the parties hereto have duly executed this **Third Amendment** as of the date first above written.

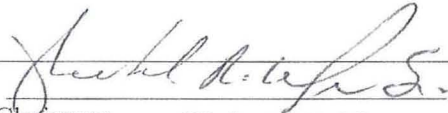
**SELLER:**

**NEW GARDEN TOWNSHIP**



By: Stephen Allaband  
Its: Chairman

**NEW GARDEN TOWNSHIP SEWER AUTHORITY**



By: Michael Wolfe, Sr.  
Its: Chairman

**BUYER:**

**AQUA PENNSYLVANIA WASTEWATER, INC.**



By: Marc Lucca  
Name: Marc Lucca  
Its: President

## **APPENDIX F**

### **STATEMENT IN SUPPORT OF AQUA PENNSYLVANIA WASTEWATER INC.**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**The Honorable Steven K. Haas, Presiding**

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**Application of Aqua Pennsylvania :  
Wastewater, Inc. Pursuant to Sections :  
1102 and 1329 of the Public Utility Code : Docket No. A-2016-2580061  
for Approval of its Acquisition of New :  
Garden Township and the New Garden :  
Sewer Authority :**

**STATEMENT OF AQUA PENNSYLVANIA WASTEWATER, INC.  
IN SUPPORT OF SETTLEMENT**

**TO ADMINISTRATIVE LAW JUDGE STEVEN K. HAAS:**

AND NOW, comes Aqua Pennsylvania Wastewater, Inc. (“Aqua,” “APW” or “Company”), by its attorneys, and submits this statement in support of the Joint Petition for Approval of Settlement of Remand Proceeding submitted to the Public Utility Commission (“Commission”) by Aqua, the Office of Consumer Advocate (“OCA”), New Garden Township (“Township”) and New Garden Township Sewer Authority (“Authority”) (Township and Authority are referred to, collectively, as “New Garden”).<sup>1</sup>

**I. INTRODUCTION**

This proceeding is before the Commission on remand as a result of the Opinion of the Commonwealth Court in *McCloskey v. Pa. P.U.C.*, 195 A.3d 1055 (Pa. Cmwlth. 2018) (“*McCloskey*”), *petition for allowance of appeal denied* No. 703 MAL 2018 (April 23, 2019). On February 21, 2020, Aqua, the OCA, Township and Authority filed a Joint Petition for Approval of Settlement of Remand Proceeding (“Joint Petition”) proposing a resolution of all issues in the remand proceeding.

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<sup>1</sup> Aqua, OCA, Township and Authority are, hereinafter, referred to, collectively, as “Joint Petitioners.”

Aqua supports the Joint Petition and submits that it should be approved, without modification.

## **II. THE PROPOSED SETTLEMENT IS CONSISTENT WITH COMMISSION REGULATIONS AND IN THE PUBLIC INTEREST. IT MINIMIZES COSTLY LITIGATION AND ADMINISTRATIVE BURDEN.**

It is the stated policy of the Commission to encourage parties in contested proceedings to enter into settlements.<sup>2</sup> Settlements lessen the time and expense of litigating a case<sup>3</sup> and, at the same time, conserve administrative hearing resources. This directly benefits all parties concerned.<sup>4</sup>

The Joint Petition proposes the resolution of all issues in this remand proceeding. Where the active parties in a proceeding have reached a settlement, the principal issue for Commission consideration is whether the agreement reached is in the public interest.<sup>5</sup> The benchmark for

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<sup>2</sup> 52 Pa. Code § 5.231(a). The Commission, moreover, has stated that the results achieved from a negotiated settlement or stipulation in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

<sup>3</sup> The substantial cost of litigation avoided through settlement includes the cost of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the cost of preparing and serving briefs, reply briefs, exceptions and replies to exceptions, together with the cost of briefs and reply briefs necessitated by any appeal of the Commission's decision.

<sup>4</sup> *Pa. P.U.C. v. The Newtown Artesian Water Company*, Docket No. R-2019-3006904, Recommended Decision of Administrative Law Judge Darlene Davis Heep dated September 4, 2019, mimeo at 8; *Pa. P.U.C. v. Buck Hill Water Company*, Docket No. R-2019-3007103, Recommended Decision of Administrative Law Judge F. Joseph Brady dated May 29, 2019, mimeo at 9-10; *Pa. P.U.C. v. Timberlee Valley Sanitation Company*, Docket No. R-2018-3003104, Recommended Decision of Administrative Law Judge Katrina L. Dunderdale dated October 16, 2018, mimeo at 10; *Pa. P.U.C. v. Reynolds Water Company*, Docket No. R-2017-2631441, Recommended Decision of Administrative Law Judge Katrina L. Dunderdale dated May 16, 2018, mimeo at 23; *Pa. P.U.C. v. Imperial Point Water Service Company*, Docket No. R-2012-2315536, Recommended Decision of Administrative Law Judge Katrina L. Dunderdale dated June 25, 2013, mimeo at 11; *Pa. P.U.C. v. The Newtown Artesian Water Company*, Docket No. R-2011-2230259, Recommended Decision of Administrative Law Judge Elizabeth H. Barnes dated September 20, 2011 ("*Recommended Decision of ALJ Barnes*"), mimeo at 9; *Pa. P.U.C. v. Reynolds Disposal Company*, Docket No. R-2010-2171339, Recommended Decision of Administrative Law Judge Conrad A. Johnson dated January 11, 2011, mimeo at 12; *Pa. P.U.C. v. Lake Spangenberg Water Company*, Docket No. R-2009-2115743, Recommended Decision of Administrative Law Judge Ember S. Jandebeur dated March 2, 2010, mimeo at 11; *Pa. P.U.C. v. Reynolds Water Company*, Docket No. R-2009-2102464, Recommended Decision of Administrative Law Judge Katrina L. Dunderdale dated February 16, 2010, mimeo at 5.

<sup>5</sup> *Recommended Decision of ALJ Barnes*, mimeo at 9, citing *Pa. P.U.C. v. C S Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991) and *Pa. P.U.C. v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1 (1985).

determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest.<sup>6</sup>

Aqua, the OCA and New Garden submit that the Joint Petition is in the public interest. Approval of the Joint Petition will minimize litigation and administrative burden by avoiding lengthy and contentious evidentiary hearings, the preparation, filing and consideration of main and reply briefs, exceptions and replies to exceptions, and by avoiding the possibility of further appellate court review of a Commission Opinion and Order.

Approval of the Joint Petition will also further the public interest by allowing the transaction to move to closing thereby promoting the General Assembly's support and encouragement of municipal wastewater acquisitions.

### **III. THE PROPOSED SETTLEMENT ADDRESSES MATTERS AS DIRECTED BY THE COMMONWEALTH COURT**

#### **A. Introduction**

The Commonwealth Court in *McCloskey* directed the Commission, on remand, to provide notice to all ratepayers. The Court also concluded that the Commission must address rate impact "in a general fashion" when deciding whether there is substantial public benefit to a transaction and determine whether the impact on rates is outweighed by the other positive factors that the acquisition serves a substantial public benefit.

#### **B. Notice to Customers**

Joint Petitioners have agreed that Aqua PA and APW will provide Notice of Proposed Acquisition and Rate Base Addition to their water and wastewater customers and that New Garden will provide Notice of Proposed Acquisition and Rate Base Addition to its wastewater customers.

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<sup>6</sup> *Recommended Decision of ALJ Barnes*, mimeo at 9, citing *Warner v. GTE North, Inc.*, Docket No. C-00902815, Opinion and Order entered April 1, 1996 and *Pa.P.U.C. v. CS Water and Sewer Associates*, 74 Pa. P.U.C. 767 (1991).

The Notices are included as Appendices A and B to the Joint Petition.

The Notices present an explanation of the settlement, including a non-binding incremental estimate of the rate effect of the proposed rate base addition, and provide customers with an opportunity to file written comments to the Joint Petition and request a hearing.

APW is providing its customer Notice via a bill insert that will begin on February 24, 2020, and will continue through March 25, 2020. New Garden will provide its customer Notice via direct mailing during the period APW is providing its Notice.

The Notices are in accordance with 52 Pa. Code § 53.45 and the Commission's Final Supplemental Implementation Order entered February 28, 2019 in Docket No. M-2016-2543193.

Joint Petitioners submit that the Notices affect compliance with *McCloskey*.

### **C. General Impact on Rates**

Joint Petitioners have included the testimony of William C. Packer as Appendix C to the Joint Petition. Mr. Packer's testimony presents a non-binding estimate of the bill impact of a ratemaking rate base addition of \$29,500,000 on New Garden customers and on existing water and wastewater customers of Aqua PA and APW.

#### Aqua Customers – Rate Impact

The non-binding estimated rate impact to customers shows a 3.10% increase on the average bill of APW's wastewater customers, and a 0.25% increase to the average bill of Aqua PA's water customers. While the proposed transaction may have a future effect on rates, it also will add to APW's customer base, thereby providing future opportunities to spread costs over a larger customer base.

#### New Garden Customers – Rate Impact

Aqua is implementing New Garden's rate which reflects a 10% increase effective in November 2018, a 9.56% increase effective in November 2019, and an 8.76% increase effective

in November 2020. The November 2020 rates will stay in effect until Aqua's next rate case. The average monthly bill of a residential customer in New Garden after the November 2020 increase will be approximately \$69.21 per month using 3,750 gallons.

By applying 100% of the revenue deficiency to the New Garden rates in effect at November 2020, the average bill of a New Garden customer would increase to approximately \$105 per month or a 52% increase. Given the fact that there are again meaningful future investments needed to address deficiencies in the system, those future rate impacts could be spread across a broader customer base thus moderating those future rate increases over time.

While the rates of the New Garden system are reasonably expected to increase, either on their own, or whether acquired by the Company, the fact is that there is more flexibility and opportunity to deal with those impacts over a much larger customer base. This benefits both existing and acquired customers alike.

Joint Petitioners submit that the Joint Petition addresses rate impact "in a general fashion" in compliance with *McCloskey* and consistent with *City of York v. Pa. P.U.C.*, 295 A.2d 825 (Pa. 1972).

#### **IV. THE IMPACT ON RATES IS OUTWEIGHED BY OTHER POSITIVE BENEFITS SUCH THAT THE ACQUISITION SERVES A PUBLIC BENEFIT**

While there is an expectation of increased rates as a result of the transaction, this is not unexpected. The possibility of increased rates is noted by the Commonwealth Court in *McCloskey*. The positive factors from the transaction outweigh the possibility of increased rates.

The Commission addressed the weighing of factors in its recent Cheltenham decision, Opinion and Order entered November 5, 2019, at Docket No. A-2019-3008491 ("*Cheltenham*"), approving Aqua's Application to acquire the Cheltenham Township wastewater system assets.

In *Cheltenham*, the Commission determined that estimated rate increases are outweighed by the substantial public benefits of the transaction. The Commission identified several benefits as a result of the Cheltenham transaction including:

- Aqua's plan to address compliance issues and invest in the Cheltenham system;
- Furtherance of the Commission's goals of consolidation and regionalization of wastewater systems;
- Realization of enhanced customer service;
- No adverse effect on the service provided to existing customers and the public;
- Aqua's negotiating expertise; and
- The moderation of rate impact as a result of Aqua's larger customer base.

The Commission identified similar public benefits as a result of Aqua's acquisition of the New Garden system listing the following in its Order entered June 29, consistent with the Policy Statement on Acquisition of Viable Water and Wastewater Systems, 52 Pa. Code § 69.721, where the Commission concluded that further consolidation of the water and wastewater industry in Pennsylvania may result in greater economic and environmental benefits to customers.

- The acquisition will further the benefits of regionalization and economies of scale in the Pennsylvania wastewater sector.
- The New Garden system will be able to draw upon the experience of wastewater professionals throughout the much larger Aqua organization.
- The acquisition will have no negative effect on the quality or quantity of service provided to existing Aqua customers.

The Commission, in its Order entered June 29 concluded further as follows:

“ ... we are in agreement with Aqua that both Aqua and New Garden's customers will benefit by sharing the costs of future infrastructure investments at a lower incremental cost per customer since this acquisition will increase Aqua's wastewater geographic service territory and customer base by eleven percent and will occur in a service territory location with projected customer growth. All of these factors demonstrate that this acquisition likely will provide the long-term benefit of cost sharing. Aqua Stmt. 1R at 8.



In addition to the benefits previously discussed, Aqua provided persuasive testimony that the transaction will have no adverse result on existing operations. The Company already has four existing wastewater treatment plants within ten miles of the New Garden system. Accordingly, it will not be necessary for Aqua to hire additional staff to absorb this system. Although Aqua did identify two near-term capital investments necessary in the New Garden system, Aqua testified that over time the acquired system will become less costly to operate. Aqua Stmt. No. 1 at 10, Aqua Stmt. No. 2 at 6, 9, and Aqua Stmt. 1R at 10.

Significantly, the Commission also pointed out that Aqua's acquisition of the New Garden system is consistent with the General Assembly's clear support and encouragement of municipal wastewater acquisitions at valuation levels higher than traditional original cost measures. The General Assembly, in other words, has concluded that transactions of this type will further the public interest.

**V. CONDITIONS FOR APPROVAL FURTHER SATISFY THE PUBLIC BENEFIT TEST**

In *Cheltenham*, the Commission discussed how conditions may be necessary to satisfy the public benefits test. It then found it necessary to meet the standard by conditioning approval of the Cheltenham transaction upon Aqua providing a separate cost of service study in the first base rate case which includes Cheltenham's assets, in order to separately identify the cost of serving the Cheltenham wastewater system.

Similar to its conclusion in *Cheltenham*, the Commission in its Order entered June 29 directed Aqua, at the time of filing its next base rate case, to submit a cost-of-service study that separates the costs, capital, and operating expenses of providing wastewater service to New Garden customers as a separate rate class. It also ordered Aqua, at the time of filing its next base rate case, to submit an analysis that addresses the effects of designing rates for the New Garden customers as a separate, stand-alone rate zone.

The required submission of a cost of service study for the New Garden wastewater system lends further support to the conclusion that the positive factors of the transaction outweigh the impact on rates just as it did in the Cheltenham proceeding. The submission of a cost of service study for the New Garden system will separately identify the cost to serve the system and inform the Commission when new rates are being considered for implementation.

The Commission in *Cheltenham* also accepted OCA conditions regarding AFUDC and depreciation deferral to meet the affirmative public benefit standard. Similar conditions were also attached to the Commission's approval of the New Garden transaction in the Order entered June 29. These conditions are still further support for a conclusion that the positive factors of the transaction outweigh the impact on rates.

All of these positive factors come together to warrant a conclusion that the estimated rate increase and rate impact are outweighed by the positive factors of the transaction. Weighing all factors for and against the transaction, including the impact on rates, Joint Petitioners agree that the Settlement is in the public interest.

## **VI. SETTLEMENT TERMS FURTHER SUPPORT THE CONCLUSION THAT THE SETTLEMENT IS IN THE PUBLIC INTEREST**

In furtherance of the public interest, Joint Petitioners, through the Joint Petition, propose additional conditions to the acquisition. The Joint Petition:

- provides that Aqua will move New Garden rates toward their cost of service in Aqua's next base rate case, thereby limiting subsidization by existing customers. The Joint Petition, however, also provides a rate increase limitation to the New Garden customers of no more than two times the system average increase of Aqua's wastewater division. These provisions will protect Aqua's existing customers and the newly acquired New Garden customers.
- directs that Aqua will provide a bill insert or welcome letter describing its low income assistance programs, a description of the eligibility requirements, and Aqua's contact information. This provision will ensure that the newly acquired customers are informed of and will be able to take advantage of Aqua's low income programs.

- Removes the CAGR and Rate Freeze from the APA. By removing the CAGR and Rate Freeze, rates may increase, subject, however, to the rate restrictions in the settlement, and ensure that existing customers are not substantially impacted.

The foregoing provides further support for approval of the acquisition.

## **VII. CONCLUSION**

Aqua Pennsylvania Wastewater, Inc. respectfully requests that Administrative Law Judge Haas accept the foregoing in support of the Joint Petition for Approval of Settlement of Remand Proceeding and further that Administrative Law Judge Haas recommend approval of and the Public Utility Commission approve the Joint Petition for Approval of Settlement of Remand Proceeding. The Joint Petition addresses notice to ratepayers and weighing of benefits as directed by and consistent with *McCloskey*. The transaction is supported by affirmative public benefit and the settlement furthers the public interest.

Respectfully submitted,

**AQUA PENNSYLVANIA WASTEWATER, INC.**

By 

Thomas T. Niesen, Esq.  
PA Attorney ID No. 31379  
Thomas, Niesen & Thomas, LLC  
212 Locust Street, Suite 302  
Harrisburg, PA 17101  
tniesen@tn-lawfirm.com

*Counsel for Aqua Pennsylvania Wastewater, Inc.*

Date: February 21, 2020

## **APPENDIX G**

### **STATEMENT IN SUPPORT OF THE OFFICE OF CONSUMER ADVOCATE**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Aqua Pennsylvania	:	
Wastewater, Inc. Pursuant to Sections 1102	:	
and 1329 of the Public Utility Code for	:	Docket No. A-2016-2580061
Approval of its Acquisition of Wastewater	:	(remand)
System Assets of New Garden Township	:	
and New Garden Township Sewer Authority	:	

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OCA STATEMENT IN SUPPORT OF  
JOINT PETITION FOR APPROVAL OF SETTLEMENT  
OF REMAND PROCEEDING

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The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Approval of Settlement of Remand Proceeding (Settlement) respectfully requests that the terms and conditions of the Settlement be approved by the Pennsylvania Public Utility Commission (Commission).

I. INTRODUCTION

On December 15, 2016, Aqua Pennsylvania Wastewater, Inc. (Aqua or Company) filed an Application pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of New Garden Township (Township) and New Garden Township Sewer Authority (Authority). The OCA filed a Protest on January 17, 2017, the Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on January 3, 2017, a Protest on January 10, 2017 and an Amended Protest on January 19, 2017. The Office of Small Business Advocate (OSBA) filed a Notice of Appearance on January 23, 2017 and the Township and Authority filed Petitions to Intervene on January 18, 2017.

Administrative Law Judge (ALJ) Haas presided over an evidentiary hearing held on February 16, 2017. The parties filed main and reply briefs. By Recommended Decision issued on April 21, 2017, ALJ Haas recommended that the Application be denied due to a lack of substantial affirmative public benefits. On June 29, 2017, the Commission entered an Opinion and Order granting Aqua's Application and approved Aqua's acquisition of the New Garden wastewater assets and a ratemaking rate base of \$29,500,000.

On July 14, 2017, I&E filed a Petition for Reconsideration. On October 5, 2017, the Commission granted the Petition for Reconsideration in part and denied it in part and modified its July 29, 2017 Order to specifically approve the Asset Purchase Agreement and the municipal agreements filed with Aqua's application.

On November 3, 2017, the OCA filed a Petition for Review with the Commonwealth Court, which was docketed as No., 1624 CD 2017. The OCA contended, *inter alia*, that the Commission erred as a matter of law in concluding that the acquisition met the substantial affirmative benefits test of Section 1102 without considering the rate increases that will result from the ratemaking rate base and that the Commission violated due process rights of customers by failing to provide notice and an opportunity to be heard to customers.

On October 11, 2018, Commonwealth Court determined that the Commission must balance the rate impact of the acquisition with the positive benefits to determine whether the acquisition results in substantial affirmative benefits. McCloskey v. Pa. P.U.C., 195 A.3d 1055 (Pa. Cmwlth. 2018), Petition for Allowance of Appeal denied, No. 703 MAL 2018 (April 23, 2019). The Commonwealth Court also held that notice and an opportunity to be heard is required for all ratepayers because the rate determinations made in a Section 1329 proceeding involve substantial property rights. The Commonwealth Court vacated the Commission's Order and remanded the proceeding to the Commission to ensure that notice and an opportunity to be

heard was provided to the buyer and seller's ratepayers, and to balance the rate impacts with the positive benefits. Aqua filed a Petition for Allowance of Appeal asking the Pennsylvania Supreme Court to review the Commonwealth Court's Opinion. The Supreme Court denied the Petition on April 23, 2019.

A prehearing conference on remand was held on November 13, 2019 before ALJ Haas. Since that time, the parties have worked to resolve the remand proceeding. The Joint Settlement is the result of the negotiations among the parties.

## II. TERMS AND CONDITIONS OF JOINT PETITION FOR SETTLEMENT

The terms of the proposed Settlement address matters raised by the OCA in its testimony in the original proceeding and on appeal, including the rate impact for existing Aqua customers and the acquired customers due to the provisions of the asset purchase agreement and the ratemaking rate base, adjustments to the appraisals, the application of the Distribution System Improvement Charge (DSIC), outreach to low income customers, and post-acquisition improvement, transaction and closing costs, as follows:

### 1. Notice to Aqua and New Garden Customers, Settlement ¶ 22.a, Appendices A and B

As part of the Settlement, Aqua and New Garden agree to provide notice to Aqua's existing water and wastewater customers and New Garden customers, respectively. Settlement at ¶ 22.a, Appendix A (Aqua) and Appendix B (New Garden). The notices provide the estimated impact of the ratemaking rate base of \$29.5 million (see Settlement ¶ 22.d. and e.). New Garden increased its rates in 2018 (10%), 2019 (9.56%) and will increase its rates in November 2020 (8.76%). Settlement ¶ 22.i. The notice to New Garden customers reflect the rates that will be in effect after the 2020 rate increase.

The notices also describe provisions of the proposed Settlement. In addition, the notices explain that customers have the opportunity to file comments and/or request a hearing regarding the proposed acquisition and settlement. Under the circumstances of this case, the notices provide the information and opportunity to request a hearing that the Court contemplated in McCloskey.

2. Impact on Rates, Settlement ¶ 22.c., Appendix C

Aqua has provided the testimony of William C. Packer (Appendix C) to provide additional evidence of the rate impact of the transaction on New Garden customers and Aqua's existing water and wastewater customers. As described below, the removal of two provisions in the Asset Purchase Agreement along with the provisions related to the cost of service study and Aqua's rate proposals in the first base rate case following the closing of the transaction will permit the parties to address the rates for New Garden customers and existing customers using the cost of service study.

3. Asset Purchase Agreement Amendments Removing CAGR and Two Year Rate Freeze, Settlement ¶ 22.j., Appendix E.

Aqua and New Garden have agreed to amend the Asset Purchase Agreement (APA) to remove the two year rate freeze that was reflected in paragraph 7.b of the APA. In addition, Aqua and New Garden have agreed to remove the ten year rate limitation that was reflected in the APA. Specifically, that provision stated that for a ten year period beginning on the closing date, rates would not increase by more than a compounded annual growth rate (CAGR) of 4%. The removal of these provisions will permit the rates of the New Garden customers to be set on a cost of service basis rather than being artificially limited over ten years.



4. Cost of Service Study and Rates, Settlement ¶22.f.,g.,h.

In the Settlement, Aqua agrees to provide a separate cost of service study for the New Garden Township wastewater system in the first base rate case in which Aqua includes the Township assets in rate base (expected to be in 2021). Settlement ¶22.f. and g. Aqua also agreed that in its next base rate case, it will propose to move the New Garden rates towards cost of service. Settlement ¶ 22.h. Specifically, Aqua will propose to increase the New Garden rates to the Aqua Zone 1 wastewater rates unless that increase would be more than two times the system-average increase for the wastewater division. Settlement ¶ 22.h.(1). If the increase is more than two times the system average increase for the wastewater division, then Aqua will propose that the proposed rates for New Garden system be capped at two times the system average. Id. The OCA agreed that it will not challenge or oppose this proposal in the first base rate case. Settlement ¶ 22.h.(2). However, the Joint Petitioners expressly recognize the Commission's ultimate ratemaking authority to set rates and that notwithstanding these provisions, the Joint Petitioners may enter into a settlement of the base rate case. Id.

These provisions will provide information to establish rates that reflect the costs for the New Garden system. Parties in the next Aqua base rate case would have the opportunity to propose that the resulting rates for the New Garden customers should differ, as appropriate, from rates established for other wastewater customers. The provisions also establish a reasonable cap on the proposed rate increase for New Garden customers and will permit the parties to address a reasonable increase for New Garden customers in the next Aqua base rate case.

5. Distribution System Improvement Charge, Settlement ¶22.k.

The parties to the proposed Settlement agreed that Aqua may apply the DSIC to customers in the New Garden Township service area prior to the first base rate case in which the system's plant in service is incorporated into rate base pursuant to Section 1329(d)(4) if certain

conditions are met. In particular, Paragraph 22.k. states that Aqua will revise its Long Term Infrastructure Improvement Plan (LTIIP) to include New Garden Township and related projects before it begins charging the DSIC to those customers. Aqua agrees that the projects for New Garden Township customers are in addition to the projects already included in its approved LTIIP. This settlement term allows for New Garden customers to begin contributing, up to 5% of their total wastewater bill, toward DSIC-eligible capital projects. These terms help to ensure that projects and expenditures already planned for existing Aqua wastewater customers will not be given less priority as a result of the New Garden acquisition.

6. Appraisal Adjustments, Settlement ¶22.m.

In its June 29, 2017 Order, the Commission adopted the OCA's adjustment to remove speculative growth adjustments from the market approach analysis. June 29, 2017 Order at 52-53. Paragraph 22.m. of the Settlement reflects that, in the future, Aqua will not support a market approach analyses that uses speculative growth adjustments. This Settlement provision should remove the necessity for OCA to address this issue in future Aqua cases.

7. Low Income Program Outreach, Settlement ¶22.b.

Aqua has agreed to provide information about Aqua's low income programs in a bill insert or a welcome letter to the New Garden Township system customers, within 90 days following the closing of the transaction. The information will describe the available programs, eligibility requirements and contact information for Aqua. The OCA submits that this provision is reasonable and will provide timely information that may be helpful to some of the New Garden customers.

8. Allowance for Funds Used During Construction (AFUDC), Deferral of Depreciation, Transaction Costs, and Legal Fees, Settlement ¶22.1.

The Joint Petitioners reserve their rights to litigate future claims for AFUDC, deferral of depreciation on post-acquisition projects pursuant to Section 1329(f), and transaction costs in future rate cases. The OCA's assent to Paragraph 22.1 should not be construed to operate as preapproval of Aqua's future requests. Paragraph 22.1 preserves all parties' positions in future rate cases, including the ability to challenge the reasonableness and prudence of the Company's claims.

III. CONCLUSION

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement should be approved.

Respectfully Submitted,



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Dated: February 21, 2020  
\*283943

## **APPENDIX H**

### **STATEMENT IN SUPPORT OF NEW GARDEN TOWNSHIP AND NEW GARDEN TOWNSHIP SEWER AUTHORITY**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Administrative Law Judge Steven K. Haas**

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**Application of Aqua Pennsylvania : Docket No. A-2016-2580061**  
**Wastewater, Inc. Pursuant to Sections :**  
**1102 and 1329 of the Public Utility Code :**  
**for Approval of its Acquisition of the :**  
**Wastewater System Assets of New Garden :**  
**Township and the New Garden Township :**  
**Sewer Authority :**

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**STATEMENT OF NEW GARDEN  
IN SUPPORT OF JOINT PETITION FOR APPROVAL  
OF SETTLEMENT OF REMAND PROCEEDING**

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**I. INTRODUCTION**

New Garden Township (“Township”) and New Garden Township Sewer Authority (“Authority”, collectively with Township, “New Garden”) hereby files this Statement in Support of Joint Petition for Approval of Settlement Remand Proceeding (“Settlement”) entered into by New Garden, Aqua Pennsylvania Wastewater, Inc. (“Aqua”), and the Office of Consumer Advocate (“OCA”, collectively with Aqua and New Garden, “Joint Petitioners”) in the above-captioned proceeding. New Garden respectfully requests that the Honorable Administrative Law Judge Steven K. Haas recommend approval of, and that the Pennsylvania Public Utility Commission (“Commission”) approve, the Settlement, including all terms and conditions thereof, without modification.

This Settlement is a result of the Commonwealth Court’s Opinion vacating the Commission’s Order approving the application of Aqua for the purchase of New Garden’s sewer

system (“Sewer System”) and remanding the matter back to the Commission for further proceedings. *McCloskey v. Pa. P.U.C.*, 195 A.3d 1055 (Pa. Cmwlth. 2018) (“*McCloskey*”), *petition for allowance of appeal denied* No. 703 MAL 2018 (April 23, 2019). The Commonwealth Court’s Opinion specifically concluded that: (1) individual customer notice of a proposed sale has to be given to all ratepayers<sup>1</sup>, (2) ratepayers must be given an opportunity to participate in the proceeding<sup>2</sup>, and (3) the Commission must address rate impact in a “general fashion” when deciding whether there is a substantial public benefit for a Section 1329 acquisition<sup>3</sup>.

Generally speaking, the overarching concern of the Commonwealth Court in *McCloskey* was that of public participation and public benefit. The Settlement, if approved, will resolve all of the issues raised in this proceeding, including those raised in *McCloskey*, and it is in the best interest of New Garden and its existing customers. It should, accordingly, be approved.

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm’n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

As an initial matter, the fact that the Settlement is supported by the Joint Petitioners in this acquisition proceeding is strong evidence that the Settlement is reasonable and in the public interest, particularly given the diverse interests of the Joint Petitioners and the active role that they have taken in

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<sup>1</sup> *McCloskey*, *supra*, Section IV at pp.1067-69.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* At pp.1064-67.

this proceeding. Moreover, the Joint Petitioners participated in lengthy settlement discussions, which ultimately led to the Settlement.

The elected officials of the Township and the appointed officials of the Authority believe that the sale of the Sewer System is in the best interest of both the customers of the Authority owned and Township operated Sewer System, and the residents of the Township. They therefore agreed to the sale to Aqua pursuant to a negotiated APA, as amended by this Settlement. These are assets owned by the public, and the Township Board of Supervisors and the Authority Board seek to promote the best interests of their constituents. Both Boards believe the Settlement is in the public interest. For these reasons, the Settlement is in the public interest and should be approved without modification

## **II. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

The Joint Petitioners have agreed to a settlement of all issues raised by the Commonwealth Court in the above-captioned proceeding. Subject to certain terms and conditions, the Settlement requests approval of: (a) the acquisition, by Aqua, of the Sewer System (the “Transaction”); (b) Aqua’s right to begin to offer, render, furnish and supply wastewater service to the public in portions of New Garden Townships, Chester County, Pennsylvania; (c) Aqua’s ability to incorporate the ratemaking rate base of \$29,500,000 for the Sewer System assets in its next base rate case pursuant to 66 Pa. C.S. § 1329(c)(2); (d) Aqua’s filing of a compliance tariff supplement containing the existing rates of New Garden at the time of closing; (e) Aqua’s inclusion of the Sewer System in its next rate base rate case; (f) Aqua providing a separate cost of service study for the Sewer System in its next base rate case; (g) Aqua submitting a plan with its next base rate filing moving rates for New Garden customers towards cost of service; (h) Aqua and New Garden providing notice of the proposed acquisition and rate base addition to all of Aqua’s water and wastewater customers and all of New Garden’s wastewater customers in the

form attached to the Settlement; (i) Aqua including a bill insert to all New Garden-area customers regarding its low income programs or, alternatively, including such information in a welcome letter to New Garden-area customers within the first 90 days of Aqua's ownership of the Sewer System; (j) the removal of the 2 year rate freeze and ten year CAGR rate restriction provisions from Paragraph 7.b of the Asset Purchase Agreement between Aqua and New Garden ("APA"); (k) Aqua's revision of its Long Term Infrastructure Improvement Plan to include the Sewer System and its related projects before it begins charging its Distribution System Improvement Charge to New Garden Customers; (l) the reservation of the right for New Garden, Aqua, and OCA to litigate claims for AFUDC, deferral of depreciation, and transaction costs to this acquisition in future rate cases; (m) Aqua's assurance of supporting a market approach in future 1329 filings; and (n) issuance of any other approval or certificate appropriate, customary, or necessary under the Code to carry out the transaction in a lawful manner.

As previously stated, this matter was remanded to the Commission to remedy only two issues raised by the Commonwealth Court: (1) that the Commission allegedly failed to consider future rate impacts in a general fashion that will result from the Transaction in its decision that the Transaction met the Section 1102 standard for approval; and (2) the alleged lack of due process rights afforded to customers by failing to provide adequate notice and an opportunity to be heard. This Settlement fully addresses each of the Court's concerns and, from New Garden's perspective, the sale of the Sewer System to Aqua continues to be in the best interest of New Garden Township's residents and Aqua's ratepayers.

#### **A. Future rate increases**

The Transaction will produce affirmative public benefits of a substantial nature, particularly given the fact that Aqua will be more capable of operating and maintaining the Sewer System at a cost-effective rate. Since New Garden constructed, installed and/or acquired the various components of the



Sewer System, it has aged considerably and both significant upgrades and new capacity will be required. In particular, constraints at the South End spray irrigation fields have resulted in significant, ongoing operational costs. As a result, sewer rates have already been stressed in order to generate the revenue needed to meet existing debt service requirements in addition to funding all of the normal as well as extraordinary operational costs. This will be exacerbated should New Garden continue to operate the Sewer System, particularly to generate the additional revenue needed to meet debt service requirements associated with new borrowing to undertake and complete identified capital projects. Even with the rate increases of 10% in 2014, 10% in 2018, 9.56% in 2019, and an anticipated increase of 8.76% effective November 2020, the total revenue for New Garden is not sufficient to keep pace with projected needs. Because of its size, scope, and expertise, Aqua is better situated to handle these costs than is New Garden. Aqua has, however, agreed to keep New Garden's proposed November 2020 rates in place until its next base rate case, at which time the Commission will have the opportunity to review any proposed rate increases for New Garden customers. Moreover, Aqua plans to propose a rate zone for New Garden Township in its next rate filing, which will include certain increase caps. Also, through the Settlement, Joint Petitioners have provided the Commission with extensive additional information regarding rate increases and impacts and also promised to provide information to all New Garden customers about its low-income programs.

In *McCloskey*, the Commonwealth Court specifically directed the Commission to review "the propriety of the rate restriction on New Garden ratepayers set forth in the APA." *McCloskey, supra*, at p.1067. The Court was referring to Paragraph 7.b of the APA that stated that Aqua would continue to charge New Garden customers its current rates for 730 days following closing and that, for the ten-year period beginning on the closing date, future rate increases will not exceed a compounded annual growth rate ("CAGR") of 4%. In response, New Garden and Aqua have agreed to amend the APA to remove

these provisions. Accordingly, the Commission is relieved of its court-ordered mandate to review the propriety of such rate restrictions.

Through the information provided within the Settlement and its exhibits, as well as the amendments proposed to the APA, Joint Petitioners have clearly addressed rate impact in a “general fashion” so as to meet the standards set by the Commonwealth Court in *McCloskey*. Given all of this rate impact information, New Garden continues to believe that this transaction is in the best interest of New Garden Township’s customers and its residents.

**B. Aqua and New Garden’s plans remedy any alleged due process violations**

Joint Petitioners propose a simple and effective means to respond to the Commonwealth Court’s order directing the Commission to provide notice to all ratepayers in accordance with 52 Pa. Code § 53.45 and to receive additional evidence from ratepayers regarding the acquisition. Namely, a Notice of Proposed Acquisition and Rate Base Addition will be sent out to all of Aqua’s water and wastewater customers and all of New Garden Township’s wastewater customers. Copies of such notices are attached to the Settlement as Appendix A (Aqua’s notice) and Appendix B (New Garden’s notice).

The notices to be sent to all existing customers provide details about the transaction, including a summary of the Settlement, estimated rate increases, information on the role of the Commission, and the manner in which a customer may be afforded an opportunity to be heard. The notice provides a date certain for written comments from customers to be sent to the Commission and for customers to request a hearing to address any concerns they may have about the transaction. There can be no doubt that such notice provides more-than-adequate due process protections to the customers of both Aqua and New Garden.

In addition to the proposed notices that will be sent out providing an opportunity to be heard, New Garden held its own public meeting to discuss the pending sale of the Sewer System to Aqua, and

specifically the proposal to amend Paragraph 7.b of the APA to remove the rate restrictions required to be addressed in *McCloskey*. On September 23, 2019, the New Garden Township Board of Supervisors and the New Garden Township Sewer Authority held a special joint meeting at the New Garden Township Municipal Building to update residents on the status of the pending sale and to consider changes to the pending asset purchase agreement. A post card containing information about the special meeting was mailed to every Sewer System customer and the meeting was duly advertised in a local newspaper of general circulation. In addition to the Township and Authority, numerous representatives from Aqua were present. At the nearly 2-hour-long meeting, which was transcribed by a court reporter, the Township, Authority, and Aqua gave a very detailed overview of the transaction and the Settlement and engaged in a dialogue with New Garden residents about their concerns. Ultimately, the meeting was overwhelmingly positive and, at the conclusion of the meeting, both the Board of Supervisors and the Authority Board publicly voted to allow for the amendment of the APA pursuant to the terms of this Settlement.

Therefore, given the notice that has already occurred through the Township's public meetings, and the proposed notice and opportunity to be heard detailed within the Settlement, the Commission should rest assured that the Commonwealth Court's due process concerns, as expressed in *McCloskey*, shall be adequately allayed.

### **III. CONCLUSION**


Through cooperative efforts focused on finding common ground, Joint Petitioners have arrived at a settlement that resolves all issues in this proceeding in a fair and equitable manner and that adequately addresses the Commonwealth Court's concerns, as expressed in *McCloskey*. The Settlement is the result of detailed examination of the Transaction, thorough discovery, and settlement negotiations. A fair and reasonable compromise has been achieved in this case, as is evident by the

fact that the Joint Petitioners have agreed to the resolution of the issues, and New Garden fully supports this Settlement. Accordingly, New Garden respectfully requests that the Honorable Administrative Law Judge Steven K. Haas recommends approval of, and the Commission approve, the Settlement in its entirety, without modification.

WHEREFORE, New Garden respectfully requests that the Honorable Administrative Law Judge Steven K. Haas recommends approval of, and that the Commission approve, the Settlement, including all terms and conditions thereof, and that the Commission enter an order consistent with the Settlement.

Respectfully submitted,

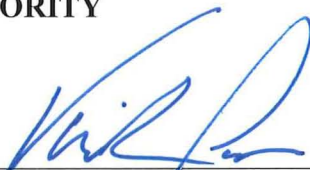
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Dated: February 18, 2020

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**The Honorable Steven K. Haas, Presiding**

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**Application of Aqua Pennsylvania Wastewater, Inc., : Docket No. A-2016-2580061  
Pursuant to Sections 1101 and 1329 of the Public :  
Utility Code for approval of its Acquisition of the :  
Wastewater System Assets of New Garden Township :**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 21<sup>st</sup> day of February, 2020, served a true and correct copy of the foregoing Joint Petition for Approval of Settlement of Remand Proceeding, upon the persons and in the manner set forth below:

**VIA ELECTRONIC AND 1<sup>ST</sup> CLASS MAIL**

The Honorable Steven K. Haas  
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